

2024 – 2027 COUNTYWIDE PLANS FOR EXPELLED STUDENTS

Triennial Update
June 10, 2024

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Santa Clara County Office of Education District Plans

ELEMENTARY SCHOOL DISTRICTS

Berryessa

Cambrian

Cupertino

Campbell

Evergreen

Franklin McKinely

Luther Burbank

Loma Prieta

Los Altos

Moreland

Mount Pleasant

Oak Grove

Sunnyvale

Union

HIGH SCHOOL DISTRICTS

Campbell Union

East Side Union

Fremont Union

Los Gatos-Saratoga Union

Mtn. View-Los Altos

UNIFIED SCHOOL DISTRICTS

Gilroy

Milpitas

Morgan Hill

San Jose

Santa Clara

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 2024 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 are unsuccessful in a community day school placement.

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 Coordinator serves as a contact 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 2024-2027

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 two county community school programs, one at each end of the county, that are committed to providing educational services to the school districts in the county. Each employs a variety of instructional strategies, including those that address obstacles associated with providing educational services to rural and 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 supported by SCCOE 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 number of students each district may send and therefore, the pre-purchasing of seat allotments by each district allows the county to start the school year with a stable community school program.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO FAIL COMMUNITY SCHOOL PLACEMENTS

The community school program operated by the Santa Clara County Office of Education maintains a commitment to accept students who have been expelled from their district of residence and for whom all alternatives offered by the district have been exhausted. Placement decisions are determined in part by level of service required by an IEP or 504 plan (if applicable) and any safety considerations surrounding the placement of the student on a specific campus. If an initial placement is made to a district operated community day school or another alternative placement and the student commits another expellable offense or is unsuccessful in 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 including a referral to the county community school program.

Students enrolled in a Santa Clara County community school who commit further expellable offenses, present a danger to other Santa Clara County community school students or campuses, or who refuse to attend may be referred back to their district of residence for another alternative placement consideration. Before such a referral is made, community school staff will consider other options for attendance, including modified schedules and independent study, as appropriate.

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

Developed by Berryessa Union School District Education Services Department

2024-2027 Berryessa Union School District – 981 Ridder Park Drive San Jose, CA 95131 (408.923.1830)

BOARD APPROVED: MAY 15, 2024

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, online modules to address specific behaviors, and restorative circles.

Ten 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 disproportionally 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 Coordinator of Student Services meets with the student and his/her family to discuss options.



Cambrian School District

Plan for Expelled Youth 2024-2027

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

2024-2027

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

<u>CAMBRIAN SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES</u> <u>FOR EXPELLED YOUTH</u>

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 There are identified gaps that exist 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. <u>Santa Clara County/Cambrian strategy for addressing this gap:</u>
 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 de-escalation 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. <u>Santa Clara County/Cambrian strategy for addressing this gap:</u>
 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 individualized restorative justice practices to have success in the recommended program and potentially return 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 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 the district in SELPA III to support the alternative placement options for 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.



Three-Year Expulsion Plan Between the Cupertino Union School District (CUSD) and The Santa Clara County Office of Education (SCCOE) For the Implementation of Education Code 48916.1

Information in Regard to Adoption of Expulsion Plan

The plan was approved by the Cupertino Union School District Board on Thursday 5/9/24. The School Board Meeting minutes approving the plan are included at the end of this document.

Cupertino Union School District Plan Educational Alternatives for Expelled Students

The Cupertino Union School District's Plan for students potentially facing expulsion is an action taken by the Board for violations of violation of California Education Code section 48900, and/or section(s) 48915(c)1-5,48915(a)1-5.

Except for violations mandating expulsion recommendations, expulsion is usually used only when other forms of discipline, including suspension, have failed to bring about proper conduct and/or when the student's presence causes a continuing danger to other students.

This plan will address the following components:

- 1. Behavioral intervention practices at the site and district levels and options to minimize suspensions and expulsions, including support for students returning from expulsions.
- 2. Impact of practices to any disproportionate representation of minority students and gaps in educational services to expelled students.
- 3. Alternative placements for pupils who are expelled and placed in district community day school programs but fail to meet terms and conditions
- 4. Santa Clara County Regional plan
- 5. CUSD Board Policy and Administrative Regulation outlining expulsion procedures

Behavioral Intervention Practices

The Cupertino Union School District offers the existing intervention programs:

Program	Description	Audience
PBIS	A multi-tiered approach to proactive positive behavior management.	TK-8
SEL Curriculum	SEL Curriculum is provided for classroom teachers to support the CASEL standards.	TK-8
Restorative Practices/Alternatives to Suspension (Ripple Effects)	Engaging school sites in training and resources to support community building and platforms to utilize for reteaching behavior expectations.	TK-8
Digital Citizenship Curriculum	Curriculum is provided for the classroom teachers to support student learning about cyberbullying, online safety and media literacy.	TK-8
Student Success Team (SST)	A team of school staff and parents meeting to discuss a student's academic, behavior, and social-emotional needs	TK-8
Intervention Strategy	A team of school staff meeting to discuss and plan for	TK-8

Team (IST) and Collaborative Support Teams (CST)	a student's academic, behavior, and social-emotional needs.	
Individual and Group Counseling	A team of district staff providing individual and group counseling to referred students at every school.	TK-8
Student Attendance Review Board (SARB)	A team of district staff and community meeting to address attendance concerns for truant students.	TK-8

The Cupertino School District offers the following options for expelled students:

- 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.

The CUSD Governing Board reviews the recommendations of the Administrative Hearing Panel and/or Chairperson of the Administrative Hearing Panel. The Governing Board makes the final referral for placement for all expelled students.

Impact of Practices and Gaps in Educational Services

The following outlines the impact of practices to any disproportionate representation of minority students, gaps in educational services to expelled students, and strategies for improvement.

- 1. Due to the infrequency of expulsions, students in grades TK-8th grade who are expelled have limited educational options. For example, CUSD does not have a community school or formalized home instruction option for general education students.
 - a. CUSD strategy for addressing this gap:
 - i. Independent and home instruction programs are informally developed to meet the educational needs of expelled students.
 - ii. The district can contract with agencies to provide educational services.

Alternative Placements for Expelled Pupils

If students who are expelled and placed accordingly fail to meet the terms and conditions of their rehabilitation plan or continue to pose a danger to other pupils, the Governing Board may determine that an alternative placement be utilized. Under these circumstances, expelled students shall be referred to an educational placement that is 1) not provided at a comprehensive elementary or middle 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 regarding what educational alternatives are appropriate for the students who are expelled. Alternatives available for expelled pupils who fail to meet the terms and conditions outlined in the rehabilitation plan include the following:

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

Santa Clara County Regional Plan

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 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).

The CUSD Director of Student Support Services will serve as the liaison between CUSD and SCCOE in regard to the district sub-plan for expulsion and coordination of services for expelled students.

CUSD Board Policy and Administrative Regulation

Board Policy 5144.1 Suspension/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)

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(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)
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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

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(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)
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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 supervised suspension 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 a public session.

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))

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. (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 telephone, mail, or other 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)

Maintenance and Monitoring of Outcome Data

The Superintendent or designee may present to the Board 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 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 harassment233 Hate violence1981-1981.5 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
- 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

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

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

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 Drug-Free Schools:

http://www.ed.gov/about/offices/list/osdfs

Administrative Regulation 5144.1 Suspension/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. 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(1))
- 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 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.

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. (Education Code 48900(r))

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 4-8

Any student in grades 4-8 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 4-8 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 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. (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, presented with the available 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 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/Director, Pupil Services. (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)

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 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)

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, 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 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.
- (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 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 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 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: 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 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)

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

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(cf. 6158 - Independent Study)
(cf. 6185 - Community Day School)
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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)

Board Policy 5144.2 Suspension/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 WEBSITES

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

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Regular Board Meeting - Thursday, May 9, 2024

Meyerholz GLC - 6990 Melvin Drive, San Jose, CA 95129

5:00 pm - Open Session

Board Meeting Minutes

Meeting called to order at 5:02 pm

1. CALL TO ORDER

- 1.1 Flag Salute (https://youtu.be/_OqK9qpQUNk&t=6s)
- 1.2 Roll Call (https://youtu.be/ OgK9gpQUNk&t=54s)

Staff conducted Roll Call to establish Quorum:

Board President Phyllis Vogel - present Board Vice President Jerry Liu - present

Board Clerk Ava Chiao - absent during Roll Call; arrived at 5:12 pm

Board Member Satheesh Madhathil - present

Board Member Sylvia Leong - present

1.3 Board Agenda Approval (https://youtu.be/ OqK9qpQUNk&t=1m7s)

Motion: Approve the May 9, 2024 regular Board meeting agenda

Motion by Trustee Liu, second by Trustee Madhathil

Final Resolution: Motion Carries

Yes: Phyllis Vogel, Jerry Liu, Satheesh Madhathil, Sylvia Leong

2. OPENING ITEMS

2.1 Recognition of the California Classified School Employees Week May 19-25, 2024 (https://youtu.be/ OqK9qpQUNk& t=1m33s)

Associate Superintendent Ghelber read out the District's appreciation of our classified staff and joins the state of California to proclaim May 19-25, 2024 as Classified School Employee Week in CUSD

2.2 May Classified Employee of the Month - Dipti Samant, School Site Instructional Technology Specialist, Eisenhower Elementary School (https://youtu.be/_OqK9qpQUNk&t=3m50s)

Associate Superintendent Ghelber read out the nomination of Ms. Samant and invited Eisenhower principal Howard Greenfield to the podium

Principal Greenfield spoke about Ms. Samant's contribution to the Eisenhower community and invited her to the podium

Board President Vogel presented Ms. Samant with recognition certificates from the District and Assemblymember Evan Low's office

the group then took group photos with the whole Board

2.3 California Distinguished Schools Recognition (https://youtu.be/ OgK9gpQUNk&t=9m25s) Superintendent Yao:

welcomed all quests at the meeting

briefly explained how the CA Department of Education select schools for the Distinguished School honor introduced our special guests and invited them to the podium:

from Congressman Ro Khanna's office - Simeone Chien, Director of Constituent Services Mayor of Cupertino Sheila Mohan

Vice Mayor of San Jose Rosemary Kamei

Santa Clara Superintendent of Schools Dr. Mary Ann Dewan

invited the principals and assistant principals of our newly selected Distinguished Schools to the podium: Miller Middle School - Principal Anu Iyer, Assistant Principal Deborah Lopez

Kennedy Middle School - Principal Gwendolyn DeWeese, Assistant Principal Joan Orvick Hyde Middle School - Assistant Principals Jenny Kim and Catherine Olson

our special quests shared a few words and presented recognition certificates to the principals of the three middle schools and a Proclamation to the District the group took group photos with the whole Board

2.4 Recognition of the California Day of the Teacher and Presentation of the 2024 Teachers of the Year (https://youtu.be/ OgK9qpQUNk&t=20m22s)

Associate Superintendent Ghelber talked about the District Teacher of the Year program the audience then enjoyed a special 2024 Teachers of the Year video that showcases each CUSD Site Teacher of the Year

the Board presented recognition certificates to each Site Teacher of the Year Associate Superintendent Ghelber then announced the 2024 CUSD District Teacher of the Year - Ms. Hannah Sun, Kennedy Middle School

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Ms. Sun gave a short speech and thanked her colleagues and family for their support the Board then invited our special quests to join the group for pictures, then recessed for a short

The Board recessed to a reception at 5:54 pm The Board reconvened the meeting at 6:10 pm

3. COMMUNICATION

3.1 Employee Organizations (https://youtu.be/ OgK9gpQUNk&t=49m57s)

CEA President Kate Lee:

congratulated all our Teachers of the Year

commented on the importance of finding the right ways to retain and attract teachers by providing what the teachers need - wages, class support, and smaller class size

the recent Joint CUSD/CEA Communication reflects a joint desire to reach an agreement

4. PUBLIC COMMENT

4.1 Public Comment Guidelines (https://youtu.be/ OgK9gpQUNk&t=52m43s)

six members of the public submitted a Comment Card to speak about the after school care options at Montclaire Elementary School:

Wala Zaytoun - not present when invited to speak Nikola Borisot - spoke virtually Georgana Vandova - spoke in person Kim Tillion - spoke virtually LauraMae Surasi - spoke in person

Marwa Abu El Haija - spoke virtually

5. SUPERINTENDENT'S REPORT

5.1 Superintendent's Report (https://youtu.be/ OgK9gpQUNk&t=1h8m22s)

Superintendent Yao shared that May is Mental Health Awareness Month
with all the end-of-school year activities, this is an exciting time but also be a hectic
and stressful time for students, parents and staff
remind all to take time of take care of oneself and each other

6. DISCUSSION

6.1 The Montebello Exchange Agreement (https://youtu.be/ OqK9qpQUNk&t=1h9m41s)

Superintendent Yao shared:

staff shared a draft of the resolution at the last meeting for Board's feedback it's been two years since the District started the conversation on the Montebello property

Scott Sheldon and Barry Schimmel from Terra Realty would be presenting the Montebello Exchange to the Board

Mr. Sheldon and Mr. Schimmel shared:

slide 2 - a brief history of the Montebello site, from when it was acquired by CUSD through lapsation to the present

always recommend an exchange instead of sale so the District will hold another property that generates continuous revenues for the District

slide 3 - current Montebello statistics

slide 4 - an analysis of the two exchange offers received: the first offer pays full asking price the \$400K deposit represents interest payment

slide 5 - an explanation of how a three-party exchange structure works

slide 6 - recommended course of actions

CBO Jew added that per Board's feedback, staff added a new provision on page 2 of the resolution - Section 6 - that stipulates that proceeds shall not be available for salaries, bonuses or other compensation

the Board asked clarifying questions:

at the end of the transaction, CUSD owns the note which will be paid off in 5 years. What property can the District acquire with the proceeds in 5 years? recommend acquiring something that will provide a stream of cash flow can be a building or land

creates a source of revenue and at the same time the District is holding on to an asset would the funds go into general fund or building fund?

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with directions from the Board, we can put the funds in the building fund if that's what the Board wants

Montebello is a big, beautiful piece of property. How come we only received two offers and at only \$2M? all brokers that we enlisted quoted the \$2M, so that is the market value

issues with the property - location/access, no municipal services, high fire area why aren't we keeping the property?

same answer as above - location/access, no municipal services, maintenance cost at around \$50K in addition, from an educational purposes, the property is subject to all ADA requirements cost of accessibility, septic maintenance, transportation (not walkable) is expensive

hidden cost - potential liability to the District what's the current maintenance cost @ Montebello? operational cost is about \$50K plus an unused school fee

past efforts to lease out the property were unsuccessful due to location

the Board then discussed the resolution draft:

support the resolution

love the view at the property, but the Board has the responsibility to maximize the asset to benefit students; this is the best use of the property

thanked staff for doing the due diligence

location is a factor; looks forward to seeing what we can do with the note

we've kept it for long enough and have explored options

disappointed that the property cannot fetch more money for the District beautiful property but not for us

there were no public comments on this agenda item

nest step - staff to bring the item back as a Consent item at the next meeting

6.2 Relocation of the District Administrative Office (https://youtu.be/ OqK9qpQUNk&t=1h36m40s)

Superintendent Yao shared:

staff presented at the last meeting a type of loan, Certificates of Participation (COP), without a deeper conversation of the District Office (DO) relocation at today's meeting, staff will revisit the whys of the relocation and look at the different options staff will also look to the Board for direction

CBO Jew and Director Todd Shimada shared:

slide 2 - a brief history of the DO move from Vista to the current Mary location the space at Vista was needed to build the new track field for Lawson

the move to Mary has always been talked about only as a temporary move, with the goal of eventually moving into a District-owned place

this year marks the 11th year that the DO has been at the Mary location slide 3 - current stats of the Mary location

current lease = \$471K; projected to increase to \$546K starting 2025 have already paid \$4.5M in lease payment to date

slide 4 - relocate the District Office to the Meyerholz campus

when we closed the campus, we intended to keep it as functionally as a school as much as possible we don't have the proceeds to do the needed renovation at Meyerholz so will need financing the idea is to take the equivalent of the Mary lease payments to pay for a \$8.65M loan another possibility is to use the bond to pay off the debt

Board comment: we don't know at this time if there will be a bond

Options for the DO:

Slide 13 summarizes the choices

Option 1 - move DO to the Meyerholz campus

Option 1A - occupy the full campus as is with no renovation

Option 1B - occupy only a portion with a \$8.65M or less renovation and lease out the remaining 8 portables

slide 11 shows the financing at \$8.65M over 30 years in net present value Option 2 - stay at the Mary location

still need to consider IT - if IT stays, the area at Vista that's currently occupied by IT cannot be used for the Central Kitchen (CK)

slide 12 shows in net present value the total rent payments made if stayed at Mary Superintendent Yao added that another option is somewhere between \$0 (no renovation) and \$8.65M renovation; a partial renovation; a lesser loan amount; or a shorter term loan

Director Todd Shimada briefly reviewed the DO schematic designs at the Meyerholz campus

the Board asked clarifying questions:

how much money can be generated from leasing the 8 portables? about \$207K/year

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in the schematic designs, are the new walls floor to ceiling?

for offices and conference rooms, they will be floor to ceiling

for open office space, it's cubicles

what's the reason to build walls instead of using more flexible partitions so that it would be easier to change back into a school in needed?

confidentiality of conversations

not all rooms need floor to ceiling walls

why is it desirable for the DO to be in a building that we own?

to be good stewards with the resources that we have, occupying our own place is much better than paying rent

if continue to lease, rent payment will be an ongoing expense commitment

if we lease out Meyerholz, what's the estimated income?

need to consider both location and composition of the campus

Meyerholz's condition is similar to Regnart's, so revenues would be similar to Regnart's in terms of dollar per square foot, and Meyerholz has more classrooms

we're currently leasing 22K square feet at Mary, but will occupy only 16K square feet at Meyerholz - why the difference?

DO used to have a bigger footprint but have scaled back over time

if we don't do any renovations, is there a mock up of what the place would look like? will need to follow up with the architect

according to the schematics, one classroom is equivalent to two offices and some share spaces? yes, approximately

if we stay at Mary, would it cost \$3/square foot?

that's the landlord's current asking price

don't know if the landlord would let us rescind our notice or let us keep our current low rate have we explored other options, like other places to lease?

no; doubt if there'd be any other places that's lower than our current lease rate

Scott Sheldon added:

current market lease rate is about \$3-4/square foot will need to add the cost of renovation to any new place

also consider the building load - any lease payment includes payment for all the common

areas such as lobby, restrooms the Meyerholz campus is located in San Jose, not Cupertino as Regnart; estimated lease rate is close to \$4/square foot if leased out the entire space

Option 1A - "as is". What exactly is "as is"?

no renovation work at all

to do any work, would be 1B or some iterations of 1B

the Board is charged with giving staff direction this evening, so the Board took a quick pulse:

Trustees Leong, Chiao and Madhathil are in favor of relocation to Meyerholz

Trustee Liu prefers as is at the Mary location

Trustee Vogel is "on the fence"

favor relocation to Meyerholz:

like the idea of using our own property - no variation in lease/cost

do not like the idea of another private school moving in to compete for our students; we need to retain our student population

relocation saves the District money in the long run

if we don't move, it's just delaying a decision and we have to spend the money to move eventually long-term benefit: want to make sure we're on a path of stability instead of being subject to market conditions

the leasing of the 8 portable will offset somewhat the renovation cost

beyond financials, the move was one of the 7-11 committee's recommendations from two years ago, and we have community support of this decision

the domino effect on CK is big - if move IT to Meyerholz and give IT's current space to CK, it's like solving two issues with one solution; seems like a good opportunity to give CK what they need with a space that we own

with a new Board room (Meyerholz GLC), we can do more community-wide celebrations/events e.g. spelling bees, art show; lots of opportunity to feel that sense of belonging not a big market out there for organizations to lease the whole campus so it would be harder to lease the entire campus, so the opportunity cost may not be as high as some thought

the current Mary office space is not welcoming; coming to a school site feels right

prefers no extensive renovation; keep the renovation cost at a minimum; need further discussion concerns with another loan; a 30-year loan in this case

favor "stay put" at Mary:

for the next 10 years, why give up on the cheap lease and forgo the opportunity cost of leasing out Meyerholz

we have to spend money to move to Meyerholz

can't see how moving to Meyerholz will save money instead of staying at Mary at the cheap rate --> need more data

"on the fence"

continue to lease is not the best idea, but also not interested in a 30-year debt if we can relocate to Meyerholz with a cost that's reasonable, with less or no debt, that it's favorable do not want the District to be perceived as spending money on the move

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the Board asked additional clarifying questions/further commented:

what was the moving cost of closing schools 2 years ago? This would provide an idea of the minimum moving cost

we tracked the cost but don't have the exact numbers at present; can provide the info in Friday

about \$79K per school two years ago; more like \$150K now if we move, do we need to do renovation immediately? what is our total revenues from all leases? about \$2M of all leases

if we stay at Mary, is there a termination clause?

yes, we will be locked in until 2033

Certificates of Participation (COPs) is a common practice amongst the districts in our area; can staff find out what other districts are doing?

similar to what we are doing with solar, a similar model

are there other options besides taking a loan?

not sure if there's any

what timeline are we talking about?

we submitted our notice to leave and will need to vacate the Mary address by April 2025 if the Board directs staff to stay, we will need to have a conversation with the landlord ASAP $\frac{1}{2}$

if we rescind our notice to leave, will our current low rate still apply?

we can hope

they are currently advertising our space at \$3/square foot

comment: this is ultimately about savings:

do not want to take on debt; need to be financially responsible

need to understand more about the renovations, both structural and otherwise; see what we can do without taking on any debt

CK is tied to the bond

comment: would like to see the least amount of money spent to provide a space that's professional; the \$8.65M is too high

staff asked what amount is the Board comfortable to borrow comment: if DO space need has decreased due to declining students, in future if there is a need to expand, we have the flexibility to expand @ Meyerholz

one member of the public submitted a Comment Card on this agenda item - Mr. Long Jiao

next step - at the next meeting, staff to bring as a discussion item a few different options for Option 1: different loan amounts/duration different scopes of work at different costs result of conversation with the Mary landlord

7. CONSENT (https://youtu.be/ OqK9qpQUNk&t=2h57m2s)

- 7.1 Ratification of Monthly Warrants and Purchase Orders
- 7.2 Ratification of Personnel Report
- 7.3 Ratification of Contracts

7.4 Approval of the 2024-25 Yosemite Contract with NatureBridge

7.5 Approval of the Student Teaching Field Placement Agreement with Santa Clara University

7.6 Approval of Out-of-State Travel for Staff to Attend the EdLeader21 Conference in Indiana

7.7 Approval of Out-of-State Travel for Staff to Attend Therapeutic Crisis Training in New York

There were no public comments for any of the Consent items

Motion: Approve Consent Items 7.1 through 7.7 Motion by Trustee Chiao, second by Trustee Leong

Final Resolution: Motion Carries

Yes: Phyllis Vogel, Jerry Liu, Ava Chiao, Satheesh Madhathil, Sylvia Leong

8. ACTION

8.1 Approval of the Adoption of Instructional Materials in World Language - Spanish and French (https://youtu.be/ OqK9qpQUNk&t=2h57m35s)

Motion: Approve the Adoption of Instructional Materials in World Language - Spanish and French

Motion by Trustee Leong, second by Trustee Madhathil

there were no additional presentation on this agenda item there were no public comments on this agenda item

Final Resolution: Motion Carries

Yes: Phyllis Vogel, Jerry Liu, Ava Chiao, Satheesh Madhathil, Sylvia Leong

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8.2 Approval of the District Expulsion Plan (https://youtu.be/_OqK9qpQUNk&t=2h58m12s)

Motion: Approve the District Expulsion Plan Motion by Trustee Liu, second by Trustee Leong

there were no additional presentation on this agenda item there were no public comments on this agenda item

Final Resolution: Motion Carries

Yes: Phyllis Vogel, Jerry Liu, Ava Chiao, Satheesh Madhathil, Sylvia Leong

9. BOARD ACTIVITY

9.1 Board Activity and Committees Reports (https://youtu.be/ OgK9qpQUNk&t=2h58m44s)

Trustee Madhathil shared that he and Board President Vogel attended the Wellness Committee meeting, the last one for this school year

discussed mental health

the Committee plans to continue work on a wellness policy

Trustee Leong shared:

she and Superintendent Yao attended the McAuliffe art show last week - kudos to teachers and kids she attended the Annual District Staff Picnic last Friday - great fun, with corn hole competition, table decoration contest, and staff performance

Board President Vogel shared that a few Board members attended the SCCSBA dinner last evening, during which the CLIP program was recognized as one of the five recipients of the Hoffmann Award

10. AGENDA SETTING

10.1 Agenda Setting (<u>https://youtu.be/_OqK9qpQUNk&t=3h1m2s</u>) the Board asked:

add to next meeting's agenda the continuation of the DO Move to Meyerholz discussion provide an update on Montclaire after school care options in the Friday Memo Superintendent Yao added that on May 23, the Board will have its Advance during the day and regular meeting in the evening

11. PUBLIC COMMENT - CLOSED SESSION

11.1 Public Comment Guidelines for Closed Session Item(s)
(https://youtu.be/_OqK9qpQUNk&t=3h1m57s) there were no public comments on the Closed Session items

12. CLOSED SESSION (https://youtu.be/ OgK9qpQUNk&t=3h2m)

- 12.1 Conference with Labor Negotiator (pursuant to Government Code §54957.6)
- 12.2 Conference with Legal Counsel Anticipated Litigation
- 12.3 Public Employee Performance Evaluation (Gov. Code 54957, subd. (b)(1))

the Board adjourned to Closed Session at 8:23 pm the Board reconvened to Open Session at 9:01 pm

13. REPORT FROM CLOSED SESSION

- 12.1 Conference with Labor Negotiator (pursuant to Government Code §54957.6) there was no reportable action on this Closed Session item
- 12.2 Conference with Legal Counsel Anticipated Litigation the Board voted 5-0 to reject Student Claim #637050
- 12.3 Public Employee Performance Evaluation (Gov. Code 54957, subd. (b)(1)) there was no reportable action on this Closed Session item

14. ADJOURNMENT 9:01 pm

Board Meeting Minutes reviewed by:

Ava Chiso Board Clark

Stacy Yao, Superintendent

Board Approved: May 23, 2024



Campbell Union School District Plan for Expelled Students 2024-2027

Three year Expulsion Plan Between Campbell
Union School District and The Santa Clara
County Office of Education for the
implementation of Ed Codes 48916.1 and 48926

Plan for Alternative Educational Setting

Campbell Union School District acknowledges that there may be instances in which an expulsion is legally required. We will continue to work with our students, staff and families to address needs in a matter that is responsive in an effort to avoid the need for this type of last effort response.

Educational programs and services within Santa Clara County provide opportunities for all students who need a traditional or an alternative education. While individual school districts offer a broad range 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 Campbell Union School District. Each plan provides requirements specific to grades, attendance, behavior, counseling and community service. A student who is in need of an educational alternative may access these programs through the Campbell Union School District and/or county referral process.

After the student has completed and met the requirements of the rehabilitation plan, an intake meeting is held with the student and the student's family with the receiving school. High school articulation meetings are conducted for 8th grade students with the Directors of Student Services from the respective high school district.

Existing Prevention and Intervention Practices for All Students

Campbell Union School District provides a continuum of preventive and intervention services in order to minimize the number of expulsions being ordered, minimize the number of suspensions leading to expulsions, and support students returning from expulsions. The MTSS (Multi-tiered Systems of Support) model is widely used to ensure resources and strategies are exhausted prior to pursuing expulsion. The following are some programs that support the district MTSS efforts.

Program/Strategy	Activity	Grade Level
PBIS	School-wide behavior expectations are taught and reinforced. Reteaching occurs after school vacations and tiered interventions are in place.	TK-8
MTSS	Student Success Team meetings are held when academic and behavior interventions are needed. High quality first instruction is an established goal with ongoing monitoring.	
SART	Site-level teams conduct attendance meetings with identified families with students struggling with attendance	TK-8

SARB	District level meetings are conducted with identified families with students struggling with attendance.	
Mental Health	General Education counseling is coordinated to support students and partnerships are formed with mental health agencies to ensure there is a higher level of service when needed.	TK-8
Social Emotional Learning (SEL)	SEL curriculum is identified and implemented at the site level and includes Character Strong, Toolbox, and Project Cornerstone.	TK-8
Tobacco Use Prevention and Education (TUPE)	Intervention resources and alternatives to suspension strategies.	6-8
Don't Suspend Me Discipline Toolkit	CUSD conducts an annual suspension training including resources for alternatives to suspension	TK-8

Addressing Disproportionate Representation of Discipline Matters for Minority Students

Campbell Union School District acknowledges that to become an inclusive organization we must transparently identify and deconstruct issues of race and bias that negatively impact our system. CUSD has a Diversity, Equity, and Inclusion committee, dedicated to examine our current practices to provide professional development through a lens of equity and racial literacy. Staff training on the social justice standards are provided two times per year. In addition to training, discipline data consisting of office discipline referrals and suspension data is provided to, and examined by, site administrators on a monthly basis. Data is aggregated by student groups to inform decision making for students who are disproportionately represented.

Existing Educational Alternatives for Expelled Youth

Campbell Union School District, located within Santa Clara County, 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, 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 a district community day program, if available, Education Code 48660.
- 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.
- Expulsion with referral to the district's Home Based Instruction Program

Recommendations for expelled students and placement take any or all of 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 student's programmatic needs (ELL, IEP, 504 Plan, etc.)
- Student's history with other students and potential conflict at the potential school of readmission

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 Campbell Union School District Governing Board and must be aligned to State Education Code and Campbell USD Board policy.

Gaps and Strategies In Educational Services

There are the identified gaps that exist in respect to providing educational services to expelled pupils. Following each gap is the district's strategy for addressing the gaps:

Gap:

Students in the elementary setting/grades one through five who are expelled do not have the same educational options available to them as expelled youth who are in the middle school setting, due to the limited numbers of students who are expelled in these lower grades. These younger students cannot attend the programs designed for middle school students. While the numbers have grown within the county, there are currently not enough to warrant the development of an elementary school program.

Strategy:

Should the need arise, younger students who are expelled may be provided with a home-based instructional program. Student's may also be placed at another site within CUSD, or be recommended to an online homeschooling program.

Gap:

Transportation for expelled students to the alternative school site continues to be an area of challenge for families. The alternative school site is located roughly five miles outside of our district boundaries. Some families do not have access to a car and the alternative school site is not accessible by public transportation.

Strategy:

Partner with other school districts in the area to share the cost of transportation services.

Gap:

Reintegration from the alternative school setting back into the comprehensive school setting presents challenges. Prior to a student's return to the school district, an intake meeting is held with the student and their family. During this meeting, the student's progress towards completing the stipulations of the rehabilitation plan are reviewed. The school district receives updates from the staff members of the county's community day program. The transition from the community day

program can be challenging for students for various reasons. It is important to ensure that the supports implemented for this student are considered when reintegrating the student back to their home district.

Strategy:

We will work with the community day program to include their staff members in the intake meeting prior to the student's scheduled return to the district. With including the staff members from the community day program, this will provide a smoother and supported transition for the student. This will ensure that the student will continue to receive the same or similar support that assisted the student to support their academic and social-emotional well-being.

Gap:

When students aren't successful at the county's Community Day program, the district is tasked with finding an alternate placement. We have experienced this challenge most recently, in part due to the reduction of programs offered through the County. When alternative placements are not available, the district must hire teachers to provide home based instruction. In the long term, this impacts classroom teachers as their workday is extended. With only one other community day school program in the county managed by a neighboring school district, our school options for expelled students are limited.

Strategy:

Campbell Union School District has the option to refer a student to another District or County Community Day School if the program is appropriate. We also have the option to assign our TOSAs (Teacher on Special Assignment) to support with home-based instruction, as their schedule is more flexible than a classroom teacher. We will also explore the option of hiring retired or former teachers to support these students. We will examine the ability to provide a distance learning option for the student to access their education from home.

Alternative Placements for Students who are Expelled but Fail to Meet Terms and Conditions of the Rehabilitation Plan

Students who are placed in county community day school programs, but fail to meet the terms and conditions of their rehabilitation plan may be offered the following options:

- CUSD Home Based Instruction
- May be referred to other district or county operated programs if the program is appropriate

If there are expelled students who commit subsequent violations, the Director of Student Services, under the direction of the Superintendent, will work with the student's family to develop a revised Rehabilitation plan that includes referrals and agreements with outside public agencies and an internet based academic program that can be completed at home. If the student does not have the appropriate equipment to complete the online program, the district will provide it.

Campbell Union School District/County Plan for Expelled Youth: 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 other 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, 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

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.

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:

<u>Community Schools</u> Sunol 6-12 South County grades 6-1

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 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-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 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 Gaps in Educational Services to Expelled Students 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 countywide 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 maintain a 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 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.

Campbell Union School District- Board Policy 5144.1

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 Board has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. Student handbooks will also indicate the reasons and conditions for expulsion and suspension. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

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(cf. 5144 - Discipline)
(cf. 5131 - Conduct)
(cf. 5131.2-Bullying)
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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)

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(cf. 1020 - Youth Services)
(cf. 5144 - Discipline)
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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 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.

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(cf. 0410 - Nondiscrimination in District Programs and Activities)
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Suspended or expelled students shall be excluded from all school-related extracurricular activities during the period of suspension or expulsion.

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(cf. 6145 - Extracurricular and Cocurricular Activities)
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Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities

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(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)
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Except when a student commits an act that violates Education Code 48900(a)-(e) as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades TK-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 fail 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)

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)

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

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

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 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 him/herself or others. (Education Code 48915)

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, selling or otherwise furnishing a firearm
- 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 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

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 solely 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)

(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 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

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. 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

PENAL CODE

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. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (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 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

Policy CAMPBELL UNION SCHOOL DISTRICT

adopted: December 17, 1998 Campbell, California

revised: March 17, 2005 revised: August 24, 2006 revised: June 20, 2013 revised: June 25, 2015 revised: March 1, 2018

revised: January 17, 2019 revised: August 13, 2020

At a board meeting held on May 16th, 2024, the Campbell Union School District Governing Board 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.



Campbell Union School District

Regular Meeting 04/18/2024

Closed Session - 5:30 P.M. | Regular Session -6:30P.M. 155 North Third Street Campbell, CA 95008

MEETING MINUTES

The meeting will be available for virtual viewing through the following link: <u>April 18, 2024</u>
Visitors are always welcome at meetings of the Governing Board, and their suggestions and comments are encouraged.

Public Comment

"Oral Communication" forms are available at the entrance and should be completed and brought to the dais before the Board meeting starts.

Public comment can also be submitted in writing electronically by using the following link: <u>Written Public</u>
<u>Comment Form</u> no later than 15 minutes before the start of the meeting.

Public Comments pertaining to any item **appearing on the agenda** will be received in-person or read by a district representative if received electronically when that item is under consideration as it appears on the agenda, prior to any action taken by the Board.

Public Comments pertaining to any item not appearing on the agenda will be taken:

- 1. During Oral Communications for those attending in-person
- 2. During Written Communications for comments received electronically (will be read by a district representative)

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

In compliance with Govt. Code §54957.5, non-exempt documents and writings that have been distributed to a majority or all of the Governing Board in advance of a meeting will be made available for public inspection at the District Office (155 North Third Street, Campbell) during normal business hours.

Individuals who require Spanish translation services or other special accommodation, including but not limited to an American Sign Language interpreter, should contact naguilar@campbellusd.org <u>no later than 4 p.m. the Monday before the meeting</u>.

Attendees

Voting Members

Danielle Cohen, President Chris Miller, Vice President Richard Nguyen, Board Member Michael Snyder, Clerk William Slade, Board Member

Non-Voting Members

Shelly Viramontez, Superintendent Lena Bundtzen

CALL TO ORDER

Governing Board President Danielle Cohen called the meeting to order at 5:30 p.m.

The following Board Members and Council were marked present by roll call: Danielle Cohen, Chris Miller, Michael Snyder, William Slade, Richard Nguyen, Shelly Viramontez, Lena Bundtzen,

2. CLOSED SESSION

There were no requests to address closed session items as stated on the agenda provided to all those in attendance.

The Governing Board convened to closed session at 5:31 p.m.

- Confer with Labor Negotiator Lena Bundtzen re: C.E.T.A. & C.S.E.A. CH 868 Negotiations (Govt. Code §3549.1 & 54957.6)
- 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

The Governing Board reconvened to regular session at 6:35 p.m.

4. FLAG SALUTE

The flag salute was led by Governing Board President, Danielle Cohen.

5. ADOPT AGENDA

Adopt the agenda as presented.

Motion made by: William Slade

Motion seconded by: Michael Snyder

Voting:

Danielle Cohen - Yes

Chris Miller - Yes

Richard Nguyen - Yes

Michael Snyder - Yes

William Slade - Yes

6. REPORT OF ACTION TAKEN IN CLOSED SESSION

There was no action taken in closed session.

7. COMMUNICATIONS

1. Written Communications

Letter from the California Association of Supervisors of Child Welfare and Attendance informing Campbell Union School District they had received the 2024 Model SARB Award.

Letter from the Santa Clara County Office of Education Superintendent Dr. Mary Ann Dewan informing Campbell Union School District of a positive certification of the district's 2023-2024 Second Interim Report.

2. Oral Communications

There were no oral communications.

8. REPORTS OF THE GOVERNING BOARD

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

The Governing Board reported on meetings attended on behalf of the district.

2. Subcommittee Reports

The following subcommittee meeting were reported: Intergovernmental Meeting

9. REPORTS OF THE SUPERINTENDENT

The Superintendent reported on the following meetings attended on behalf of the district:

Carnegie Conference
Capri Multicultural Night
DELAC Presentation
Expanded Learning Cooking Competition
Al Workshop
SPAC Meeting
Intergovernmental Subcommittee Meeting
San Jose Traffic Meeting

10. INFORMATION AND POSSIBLE ACTION ITEMS

1. California Proposition 28, Art and Music Education Funding Initiative Update

Per the requirements of Proposition 28, the Art and Music Education Funding Initiative, the Superintendent, Dr. Shelly Viramontez presented Campbell Union School District's 2023-2024 Proposition 28 Plan.

2. 2024 District Level Survey Results

The Superintendent, Dr. Shelly Viramontez updated the Governing Board on the high level themes from the experience survey from staff, students, and parents/care givers.

11. ACTION ITEMS - CONSENT AGENDA

It is recommended that the Governing Board approve the consent agenda as follows:

Motion made by: Richard Nguyen Motion seconded by: William Slade

Voting:

Danielle Cohen - Yes Chris Miller - Yes Richard Nguyen - Yes Michael Snyder - Yes William Slade - Yes

1. Donations

Accept the donations as presented.

2. Minutes Regular Session March 28, 2024

Approve the minutes of the regular session March 28, 2024.

3. Personnel Report

Approve the Personnel Report and Addendum Personnel Report as submitted.

4. Expenditure, Purchase Order, and Payroll Reports - March 2024

Ratify the Expenditure Reports, Purchase Order contracts, and Payroll that were issued during the periods listed:

- 1. Payroll Report for March 2024
- 2. Warrant Report for March 2024
- 3. Purchase Order Report for March 2024

Resolution 2023-24-26, Resolution Authorizing District Personnel to Sign District Orders

Adopt Resolution 2023-24-26, Resolution Authorizing District Personnel to Sign District Orders.

6. Authorization to Purchase Instructional Materials

Authorize Administration to purchase instructional materials, including digital resources from Amplify Education, Inc. in an amount not to exceed \$75,000.00.

7. Campbell Union School District Sunshine Proposal to Campbell Elementary Teachers Association (CETA) for the 2024-2025 School Year

Direct the Assistant Superintendent of Human Resources to enter into negotiations with the Campbell Elementary Teachers Association (CETA).

8. Campbell Elementary Teacher Association (CETA) "Sunshine" Proposal to Campbell Union School District for 2024-2025 School Year

Direct the Assistant Superintendent to enter into negotiations with the Campbell Elementary Teachers Association (CETA).

9. Campbell Union School District Expulsion Plan 2024-2027

Approve the Campbell Union School District's Expulsion Plan for 2024-2027.

Overnight Field Trip Request: Forest Hill Elementary School 5th Graders to YMCA Camp Campbell Science School, Boulder Creek

Approve the field trip request for approximately 96 students from Forest Hill Elementary School to participate in the YMCA Camp Campbell Outdoor Science School in Boulder Creek, California from December 10-13, 2024.

11. Overnight Field Trip Request: Sherman Oaks Elementary School 5th Grade Students to YMCA Camp Campbell Outdoor Science School, Boulder Creek

Approve the overnight field trip request for approximately 57 students from Sherman Oaks Elementary School to participate in the YMCA Camp Campbell Outdoor Science School in Boulder Creek, California from January 14-January 17, 2025.

12. Instructional Materials - Williams Uniform Complaint Quarterly Report

Approve the Quarterly Report on Williams Uniform Complaints during the January 1 through March 31, 2024 quarter.

13. Agreement between Campbell Union School District and the Santa Clara County Office of Education for QSS and Network Services for the 2024-25 Fiscal Year

Approve the agreement between the Campbell Union School District and the Santa Clara County Office of Education for QSS System and Network Services for the 2024-25 fiscal year.

14. Authorization to Purchase Microsoft Licensing for the 2024-25 School Year

Approve the purchase of Microsoft services from Softchoice through their piggyback contract with Kings County Office of Education in the amount estimated at \$207,155.45.

15. Award of Bid: Capri ES Ph1 - Demolition and Utility Relocation

Award the bid for Capri ES PH1 – Demolition and Utility Relocation to Frontline General Engineering Construction, Inc. with the low bid of \$709,745.00.

16. Authorization to Purchase Lockers for Campbell School of Innovation

Authorize the purchase and installation of new lockers for the girl's and boy's locker rooms in Building H at CSI from Consolidated Partitions in an amount estimated at

\$86,100.00

17. Award of Bid: Renovation of Locker and Office Building at Campbell School of Innovation

Award the bid for Renovation of Locker and Office Building at Campbell School of Innovation to SC Builders Inc. with the low bid of \$824,000.00.

18. Award of Bid: Sherman Oaks ES Fire Alarm Upgrade

Award the bid for Sherman Oaks ES Fire Alarm Upgrade to Jahn Plumbing with the low bid of \$234,091.00.

19. Award of Bid: Sherman Oaks Parkway Demolition and Utility Relocation

Award the bid for Sherman Oaks Parkway Demolition and Utility Relocation to SC Builders Inc. with the low bid of \$624,000.00

20. Authorization to Purchase New Blue Bird Diesel Buses

Authorize the District to piggyback off of Waterford Unified School District's piggyback bid, Bid #01/22 "School Bus(es)" to purchase two new blue Bird diesel buses from A-Z Bus Sales in an amount estimated at \$394,190.52.

21. Authorization to Purchase Projectors for Phase 2 of the Audio/Video Update Project

Approve the purchase of Projectors from Multimedia Consulting Services (MMCS) via Epson America's CMAS Contract (3-23-01-1034) in the amount of \$264,100.20.

12. UPCOMING CALENDAR DATES

The upcoming 2024 calendar dates were reviewed:

May 16

June 6

June 20

July 11 (if needed)

August 1

August 22

September 5

September 26

October 17

November 14

December 12

December 19

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

Future agenda items were reviewed and added:

May 16 - Rosemary Elementary School Presentation

May 16 - District Math Improvement Update

May 16 - Tech Update on Phone Lockers

May 16 - Preschool Annual Update

TBD - Science Camp

TBD - Chronic Absenteeism

14. CLOSED SESSION

There was no closed session held under Item 14.

15. ADJOURNMENT

The meeting was adjourned at 7:24pm.

mosal Dusda	5/16/24
/	
Board Clerk	Date
Dener 8	5.16.24
Superintendent	Date



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

May 9, 2024

To: Dane Caldwell-Holden

Director of Alternative Education

Santa Clara County Office of Education

From: Dr. Marena Doxie

Director of Child Welfare and Attendance

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 9, 2024 the Evergreen 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.

Enclosures: Board Meeting Agenda, May 9 2024

Board Meeting Minutes, May 9, 2024

cc: Dr. Antoine Hawkins

Superintendent

Evergreen School District

Evergreen School District

Three-Year Expulsion Plan Table of Contents

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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 2024 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) behavioral intervention practices to minimize expulsions, 2) addressing disproportionality through interventions 3) a list of existing educational services to expelled students, including articulation between the district and county office of education 4) gaps in educational services to expelled students and strategies for filling those gaps, and 5) alternative placements for students who fail community day school placements (if offered in your district).

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 delineates the behavioral intervention practices to minimize expulsions at the site and district levels, 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.

BEHAVIOR INTERVENTION PRACTICES IN EVERGREEN ELEMENTARY SCHOOL DISTRICT

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. A summary of the behavior intervention practices are outlined on Table 1.1.

- 1. 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.
- 2. 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.
- 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.

Additionally, Evergreen School District provides the following support for students, depending on the particular offense and the specific needs of the child.

- 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/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.

Table 1.1

Behavior Intervention Practices		
Program/Activity	Description	Grade Level
MTSS	A multi-tiered approach to ensure student success that encompasses the academic, behavioral and social emotional needs of all students.	TK-8
PBIS	A multi tiered approach to positive behavior management	TK-8
SST	A team of school staff and parents who meet to discuss the academic, behavioral and social emotional needs of students.	TK-8
SARB	District School Attendance Review Board that meets to determine underlying causes for chronic absenteeism and determines which supports are needed to increase attendance.	TK-8
Tobacco Use Prevention Education (TUPE)	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.	TK-8
District / School Behavior Expectations	The Evergreen Elementary School District Behavior Expectations Matrix outlines the standards and behaviors expected of all students to encourage students' success, providing clear guidance on disciplinary practices at the school site with a focus on other means of corrections and alternatives to suspension.	TK-8
Wellness Connections Centers	Mental health literacy and mental health education helps students become responsible, effective, and successful in living full and healthy lives. Wellness Connections Centers at three schools along with the digital website, help students to find and connect with information and tools that will assist during the journey from mental health awareness to wellness.	TK-8

ADDRESSING DISPROPORTIONALITY THROUGH INTERVENTIONS

Regular evaluation of school discipline practices and other school-wide behavior management approaches requires the regular review of discipline reports to determine whether practices affecting students of various groups (e.g. race, ethnicity, gender, orientation, disability, and English learner status) are disproportionately disciplined. Evergreen actively addresses identified areas of disproportionately disciplined students to eliminate discriminatory practices and ensure an equitable and safe learning environment for all students.

Program/Activity	Addressing Disproportionality	
MTSS	Utilizing a multi-tiered support across all school sites ensures student success and addresses behavioral issues that arise with equity. Sites continually look at data to identify and implement strategies that support student growth and correction over punitive actions. Training on restorative practices for all staff helps to support these measures.	
PBIS	Re-establishing a positive behavior management system that is implemented with fidelity district-wide, supports equitable behavior practices for all students, including those disproportionally identified.	
SST	In revamping the SST process, a clear process has been delineated to provide intervention support to students. With this revised implementation, the number of student referrals has decreased as problematic behaviors improve through classroom interventions.	
SARB	In collaboration with school liaisons, social workers, families, and students, the SARB team identifies causes of absenteeism and partners with families to provide additional resources and support to increase attendance.	
Tobacco Use Prevention Education (TUPE)	Students identified as at-risk for tobacco usage are provided opportunities to connect with TUPE resources and student groups to increase their knowledge about tobacco usage as a preventative strategy.	
District / School Behavior Expectations	The Evergreen Elementary School District <u>Behavior Expectations Matrix</u> creates a standardized disciplinary practice at the school sites with a focus on other means of corrections and alternatives to suspension that will be implemented in the 24-25 school year.	
Wellness Connections Centers	Students' regular access to the Wellness Connections Centers, including a calming space, provides them with access to wellness tools and resources for behavior self-regulation strategies.	

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.

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

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.

Over the next three years, Evergreen School District will be implementing strategies to improve the educational services for expelled students. First, focusing on behavioral intervention practices, as outlined in the prior sections, across the District and individual school sites, Evergreen School District is taking preventative measures to actively reduce suspension and expulsion rates to provide every student with the least restrictive learning environment. In cases of expulsion, the District will continue to clearly communicate with and provide a smooth transition of the new educational services to students. Additionally, the District will continue to strengthen its collaboration with the County Office of Education in providing alternative educational services to expelled students.

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

There are gaps that exist in respect to providing educational services to expelled pupils. Evergreen School District continues to work with staff, districts, the county office of education, and students and families to mitigate the impact of identified gaps in educational services to expelled students. Following is a summary of each gap, the District strategy for addressing the gaps, and progress on implementation of the strategies.

1. 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.

Implementation of the strategy:

There were no expulsion cases that required the implementation of this strategy. The District has collaborated with students, families, and the county office to ensure the appropriate placement and success of students in community school programs, including after the expulsion period has ended. Students in the community school program have excelled in that program.

2. 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.

Implementation of the strategy:

In working with students and families of younger students on alternative educational opportunities, the District has successfully provided students with alternate placements in other school districts or non-public schools. During the expulsion process, students were provided with continued learning opportunities outside of the school via a certificated District staff member to continue to provide them with their educational rights.

3. 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.

Implementation of the strategy:

Capacity within alternative schools has maintained availability for the number of expelled students in the District. The District will continue to partner with the Alternative Schools Department at the Santa Clara County Office of Education on any increase in numbers of expelled youth.

Identified gaps in educational services to expelled students also continues to remain a focus for Santa Clara County.

- 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, and 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. To mitigate this, students may be returned to their school district of residence to provide an educational program placement. Additionally, 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 county-wide 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 DAY SCHOOL PLACEMENTS

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 guardian 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.

APPENDIX

- 1. ESD Board Meeting Agenda, May 9, 2024
- 2. ESD Board Meeting Minutes, May 9, 2024
- 3. ESD Behavior Expectations and Matrix
- 4. SELPA Procedural Handbook: South East Consortium: Chapter 9: Suspension & Expulsion
- 5. Special Education Removals for Disciplinary Purposes Flowchart
- 6. ESD Board and Administrative Regulation Policy:
 - a. <u>BP 5144.1</u>
 - b. AR 5144.1
 - c. AR 5144.2

Thursday, May 9, 2024

Regular Meeting Board of Trustees 6:30 p.m. Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes. THIS MEETING WILL BE HELD IN PERSON AND VIA ZOOM.

TO LOG IN TO ZOOM (See Login Information below)

Please click the link below to attend the Virtual Board Meeting: https://zoom.us/j/97607319160

When: May 9, 2024

Schedule:

5:00 PM - Closed Session

6:30 PM - Open Session (Regular Meeting)

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), WE REQUEST TO PLEASE SEND AN EMAIL TO BOARDROOM@EESD.ORG (WHICH IS PREFERRED FOR PLANNING PURPOSES). IF ATTENDING IN PERSON, COMMUNITY MEMBERS MUST COMPLETE A SPEAKER CARD. ON YOUR EMAIL AND SPEAKER CARD, PLEASE SPECIFY THE AGENDA ITEM YOU WOULD LIKE TO ADDRESS, YOUR NAME, CONTACT INFORMATION AND STAKEHOLDER AFFILIATION. YOU WILL BE CALLED UPON IN THE ORDER EMAILS AND SPEAKER CARDS WERE RECEIVED /TIMESTAMPED.

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 civil and respectful way so that all in attendance, from children to adults, may participate. Evergreen School District Board of Trustees Meeting Agendas with references and enclosures are available in their entirety on the District's webpage www.eesd.org or may be viewed at the District Office. In compliance with the Americans with Disabilities Act, all meetings are held in locations that allow disability-related accommodations.

PLEASE TURN OFF OR MUTE CELL PHONES OR OTHER ELECTRONIC DEVICES.

MISSION STATEMENT

Evergreen Elementary School District provides all students a high-quality education in a safe and nurturing environment where each student demonstrates a spirit of respect, responsibility, global-mindedness and a commitment to academic and civic excellence.

PROTOCOL FOR THE BOARD OF TRUSTEES DURING IN-PERSON AND VIRTUAL BOARD MEETINGS:

Board Meetings are in person, but Zoom Video is an option for attendees. Please note, if you are attending in person, the entire meeting is being recorded, except for Closed Session. Members of the public who are attending virtually may be able to see the in person attendees.

Please note, panelists and attendees who are attending virtually are muted 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 President allows panelists and attendees to speak anytime during the meeting.

RECORDING - Regular Open Sessions are recorded.

PUBLIC COMMENTS - We request that members of the public who would like to address the Board during Comments from the Public send an email to boardroom@eesd.org OR if attending via Zoom to please raise their hand. The Board President or Manager of Information Services will announce to notify the person who will be addressing the Board if speaker is attending virtually. If participating via telephone, the telephone number shall be revealed, please state your name and affiliation once your name or

telephone number is announced.

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Public comments are limited to 3 minutes per speaker AND per the discretion of the Board President.

REPORTS / ENCLOSURES may be projected and a screen will be shared via Zoom. The public may view it 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

Under Roberts Rules - adopted pursuant to Policy 203 - the presence of a quorum is presumed once it has been established at the beginning of a meeting.

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

Sincerely,

Evergreen School District Board of Trustees

1. CALL TO ORDER (CLOSED SESSION)

Subject: 1.1 Comments from the Public

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Procedural

2. CLOSED ITEMS (WILL BE HELD AT 5:00 PM TO DISCUSS THE ITEMS BELOW)

Subject: 2.1 Settlement Agreement-Case#112578-Education Code

56000

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

2. CLOSED ITEMS (WILL BE HELD AT 5:00 PM TO DISCUSS THE ITEMS BELOW)

Subject:

2.2 (Gov. Code, section 54957.6) Agency Designated Representative: Dr. Antoine Hawkins, Superintendent, Employee Organizations: Evergreen Teachers Association (ETA) and California School Employee Association (CSEA Chapter #432)

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type:

2. CLOSED ITEMS (WILL BE HELD AT 5:00 PM TO DISCUSS THE ITEMS BELOW)

Subject: 2.3 Public Employee appointment, employment, evaluation

of performance, discipline, or dismissal of a public employee (Government Code Section 54957)

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action

2. CLOSED ITEMS (WILL BE HELD AT 5:00 PM TO DISCUSS THE ITEMS BELOW)

Subject: 2.4 Anticipated Litigation; Significant exposure to litigation

pursuant to paragraph (2) of subdivision (d) (Government

Code Section 54956.9): One (1) potential case

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action

4. OPENING ITEMS (OPEN SESSION STARTS AT 6:30 PM)

Subject: 4.1 Roll Call / Quorum

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Procedural

Public Content

Board of Trustees:

Jeremy Barousse - President

Mary Pollett - President Pro-Tem

Jim Zito - Clerk

Dr. Stan Rose - Trustee

Dr. Antoine Hawkins- Superintendent Of Schools / Secretary Ex-Oficio

4. OPENING ITEMS (OPEN SESSION STARTS AT 6:30 PM)

Subject: 4.2 Flag Salute

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Procedural

4. OPENING ITEMS (OPEN SESSION STARTS AT 6:30 PM)

Subject: 4.3 Evergreen Teachers Association (ETA) Scholarship

Recipients

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type:

4. OPENING ITEMS (OPEN SESSION STARTS AT 6:30 PM)

Subject: 4.4 School Highlights-Tom Matsumoto Elementary School

Students

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Information

5. MATTERS FROM THE PUBLIC

Subject: 5.1 Comments from the California School Employees

Association (CSEA) Chapter 432 President

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Information

5. MATTERS FROM THE PUBLIC

Subject: 5.2 Comments from the Evergreen Teachers Association

(ETA) President

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Information

5. MATTERS FROM THE PUBLIC

Subject: 5.3 Comments from the Public (Members of the Public may

address the Board)

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Information

Public Content

The public may also speak to the Board on subjects not on tonights agenda during Matters from the Public providing the topic falls within the subject matter jurisdiction of the Board. Remarks must be limited to no more than three minutes and a maximum of fifteen minutes to each subject matter to be invoked at the discretion of the Board. As an unagendized item, no response is required from the Board or district staff, and no action can be taken. However, the Board may consider the item for a future meeting.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.1 Approval of Special Board Meeting Minutes, April 22,

2024

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Minutes

File Attachments

2324 April Board Special Meeting Minutes 4.22.24.pdf (83 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.2 Approval of Regular Board Meeting Minutes, April 18,

2024

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Action (Consent), Minutes

Type:

File Attachments

2324 April Regular Board Meeting Minutes 4.18.24.pdf (170 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.3 Approval of Special Board Meeting Minutes, April 17,

2024

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action, Minutes

File Attachments

2324 April Board Special Meeting Minutes 4.17.24.pdf (81 KB)

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.4 Approval of Special Board Meeting Minutes, April 11,

2024

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action, Minutes

File Attachments

2324 April Board Special Meeting Minutes 4.11.24.pdf (90 KB)

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.5 Ratification of Contracts

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent)

File Attachments

23-24 May 9, 2024 Contract List-FINAL.pdf (89 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.6 Ratification of April Warrant List

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent)

File Attachments

5.9.24 BOARD REP CK DATE APRIL.pdf (219 KB) 5.9.24 BOARD REP VENDOR APRIL.pdf (221 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.7 Personnel Report

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent)

File Attachments

Board Reports May 9, 2024.pdf (120 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent

Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Subject: 6.8 Approval of All Consent Items Listed Above

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action, Action (Consent)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

7. BOARD PRESENTATION/REPORTS

Subject: 7.1 Parcel Tax Survey

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Discussion, Information

File Attachments

Evergreen ESD Parcel Tax Voter Survey Results Client April 2024 FINAL.pdf (3,982 KB)

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.1 Approval for the Grant Resolution Agreement for the

California Schools Healthy Air, Plumbing, and Efficiency

(CalSHAPE) Ventilation Program

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Approval-Grant Resolution 122023-24 CalSHAPE Ventilation Program.pdf (297 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent

Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.2 Approval of Three Year Expulsion Plan 2024-2027

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

ESD Expulsion Plan 5.9.24 Board Presentation.pdf (236 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.3 Approval of Bid, Carolyn Clark Classroom Expansion,

Modernization, and Sitework for Calstate Construction for

\$2,024,777.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Bid Memo-Carolyn Clark Expansion.pdf (94 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.4 Approval of Bid, Millbrook Elementary School Building

"A" Roof Replacement and Modernization for Stronger

Building Services for \$1,560,000.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to

reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Bid Memo-Millbrook.pdf (93 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.5 Approval of Bid, Norwood Creek Classroom

Modernization and Sitework Project for Cal Pacific

Construction Inc. for \$1,097,000.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Bid Memo-Norwood Creek.pdf (93 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.6 Approval of Contract/Service Agreement-New Tech

Network 2024-2026 for \$263,040.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Consent Memo-New Tech Network 2024-26.pdf (133 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.7 Approval of Contract/Service Agreement-PowerSchool

2024-2025 for \$241,528.35

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Consent Memo-PowerSchool.pdf (128 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.8 Approval of Contract/Service Agreement-Silver Creek

Academy Summer Enrichment Program 2024 for

\$100,774.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Consent Memo-Silver Creek Academy Summer 2024.pdf (130 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Subject: 8.9 Approval of Contract/Service Agreement-YWCA 2024-

2025 for \$118,375.00

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Action (Consent), Discussion

File Attachments

Board Consent Memo-YWCA 24-25.pdf (130 KB)

Consent

Action taken by the Board of Trustees in Consent Items will be taken in one motion. The Board of Trustees may pull any Consent Item for purposes of clarification or comment. When asked for Consent Item comments from the public, members of the public shall identify themselves and address the Board of Trustees. These comments follow the same protocol established for comments during Matters from the Public.

10. INFORMATIONAL ITEMS / MISC. UPDATES

Subject: 10.1 Superintendent Update

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type:

10. INFORMATIONAL ITEMS / MISC. UPDATES

Subject: 10.2 Trustee Updates

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type:

12. FUTURE MEETINGS

Subject: 12.1 May 11th (Special Board Meeting), June 20th, June

27th (Special Board Meeting), August 15th

Meeting: May 9, 2024 - Regular Meeting Board of Trustees 6:30 p.m.

Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes.

Type: Information

Public Content

2024 Board Meetings:

*January 18, 2024
January 27, 2024 Special (Special Board Meeting-Study Session)
February 3, 2024 (Special Board Meeting-Study Session)
February 8, 2024
March 14, 2024
*April 18, 2024

May 9, 2024
*May 11, 2024 (Special Board Meeting-Study Session)
*June 20, 2024
June 27, 2024 (Special Board Meeting)
*August 15, 2024
September 12, 2024
October 10, 2024
November 7, 2024
December 12, 2024

*January, April & June and August meetings are NOT held on the 2nd Thursday of the month due to conflicts with the Winter Holiday, Spring Break, Promotion ceremonies, and Management Retreat

Regular Meeting Board of Trustees 6:30 p.m. Regular Open Session, Call To Order at 5:00 p.m. will convene to Closed after Call to Order. The Board is to reconvene at 6:30 after Closed Session concludes. (Thursday, May 9, 2024)

Generated by Kim McNiven on Thursday, May 16, 2024

Meeting Called to Order at 6:46 p.m.

1. CALL TO ORDER (CLOSED SESSION)

Procedural: 1.1 Comments from the Public

There were no comments from the Public on Closed Session Items.

2. CLOSED ITEMS (WILL BE HELD AT 5:00 PM TO DISCUSS THE ITEMS BELOW)

Action (Consent), Discussion: 2.1 Settlement Agreement-Case#112578-Education Code 56000

Action: 2.3 Public Employee appointment, employment, evaluation of performance, discipline, or dismissal of a public employee (Government Code Section 54957)

Action: 2.4 Anticipated Litigation; Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) (Government Code Section 54956.9): One (1) potential case

3. REPORT OF ACTION FROM CLOSED SESSION (BOARD ACTIONS WILL BE REPORTED HERE) Action 2.1: The Board of Trustees Unanimously approved the Settlement Agreement-Case #112578, in the amount of \$15,000.00

4. OPENING ITEMS (OPEN SESSION STARTS AT 6:30 PM)

Procedural: 4.1 Roll Call / Quorum

Members Present:

Jeremy Barousse, Mary Pollett, Jim Zito, Dr. Stan Rose, Patti Andrade

Procedural: 4.2 Flag Salute

The flag salute was led by an ESD student from Tom Matsumoto Elementary School

Information: 4.3 Evergreen Teachers Association (ETA) Scholarship Recipients

The ETA Scholarship Committee members presented the seven Scholarship Recipients with their awards.

Information: 4.4 School Highlights-Tom Matsumoto Elementary School Students Students from Tom Matsumoto Elementary School presented their Robotics projects to the Board of Trustees.

5. MATTERS FROM THE PUBLIC

Information: 5.1 Comments from the California School Employees Association (CSEA) Chapter 432 President CSEA Chapter 432 President, Pauline Benton shared information on the CSEA Scholarship Awards. Recognized ESD Employee Appreciation day and Classified Employee Appreciation Week.

Information: 5.2 Comments from the Evergreen Teachers Association (ETA) President ETA President, Suzanne Lima recognized ESD Staff Appreciation Day.

Information: 5.3 Comments from the Public (Members of the Public may address the Board)

6. CONSENT ITEMS (ACTION ITEMS - TO BE READ BY CLERK OF THE BOARD)

Action (Consent), Minutes: 6.1 Approval of Special Board Meeting Minutes, April 22, 2024

Action (Consent), Minutes: 6.2 Approval of Regular Board Meeting Minutes, April 18, 2024

Action, Minutes: 6.3 Approval of Special Board Meeting Minutes, April 17, 2024

Action, Minutes: 6.4 Approval of Special Board Meeting Minutes, April 11, 2024

Action (Consent): 6.5 Ratification of Contracts

Action (Consent): 6.6 Ratification of April Warrant List

Action (Consent): 6.7 Personnel Report

Action, Action (Consent): 6.8 Approval of All Consent Items Listed Above

Amendment to Item 6.7 Personnel Report: Remove two positions for approval: Principal of LeyVa Middle School and Coordinator, Special Education

Resolution: Motion to Approve All Consent Items as Amended

Motion by Jim Zito, second by Patti Andrade Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Dr. Stan Rose, Patti Andrade Final Resolution: Motion Carries

7. BOARD PRESENTATION/REPORTS

Discussion, Information: 7.1 Parcel Tax Survey

Nicole Roberts with Dale Scott & Company presented the survey results to the Board of Trustees.

8. ITEMS FOR IMMEDIATE DISCUSSION OR ACTION

Action (Consent), Discussion: 8.1 Approval for the Grant Resolution Agreement for the California Schools Healthy Air, Plumbing, and Efficiency (CalSHAPE) Ventilation Program

Resolution: Motion to approve the Grant Resolution Agreement for the California School Healthy Air, Plumbing, and Efficiency (CalSHAPE) Ventilation Program

Motion by Jim Zito, second by Patti Andrade Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.2 Approval of Three Year Expulsion Plan 2024-2027
Dr. Marena Doxie, Director of Child Welfare and Attendance, presented the Three Year Expulsion Plan, 2024-2027 to the Board of Trustees

Resolution: Motion to approve the Three Year Expulsion Plan, 2024-2027

Motion by Jim Zito, second by Mary Pollett Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.3 Approval of Bid, Carolyn Clark Classroom Expansion, Modernization, and Sitework for Calstate Construction for \$2,024,777.00

Resolution: To approve the Bid, Carolyn Clark Classroom Expansion, Modernization, and Sitework for Calstate Construction for \$2,024,777.00

Motion by Jim Zito, second by Patti Andrade Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.4 Approval of Bid, Millbrook Elementary School Building "A" Roof Replacement and Modernization for Stronger Building Services for \$1,560,000.00

Resolution: To approve the Bid, Millbrook Elementary School Building "A" Roof Replacement and Modernization for Stronger Building Services for \$1,560,000.00

Motion by Jim Zito, second by Mary Pollett Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.5 Approval of Bid, Norwood Creek Classroom Modernization and Sitework Project for Cal Pacific Construction Inc. for \$1,097,000.00

Resolution: To approve the Bid, Norwood Creek Classroom Modernization and Sitework Project for Cal Pacific Construction, Inc. for \$1,097,000.00

Motion by Jim Zito, second by Mary Pollett

Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade

Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.6 Approval of Contract/Service Agreement-New Tech Network 2024-2026 for \$263,040.00

Resolution: To approve the Contract/Service Agreement-New Tech Network 2024-2056 for \$263,040.00

Motion by Mary Pollett, second by Patti Andrade

Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade

Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.7 Approval of Contract/Service Agreement-PowerSchool 2024-2025 for \$241,528.35

Resolution: To approve the Contact/Service Agreement-PowerSchool 2024-2024 for \$241,528.35

Motion by Jim Zito, second by Mary Pollett

Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade

Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.8 Approval of Contract/Service Agreement-Silver Creek Academy Summer Enrichment Program 2024 for \$100,774.00

Resolution: To approve the Contract/Service Agreement-Silver Creek Academy Summer Enrichment Program 2024 for \$100,774.00

Motion by Mary Pollett, second by Jim Zito

Aye: Jeremy Barousee, Mary Pollett, Jim Zito, Patti Andrade

Absent: Dr. Stan Rose

Final Resolution: Motion Carries

Action (Consent), Discussion: 8.9 Approval of Contract/Service Agreement-YWCA 2024-2025 for \$118,375.00

Resolution: To approve the Contact/Service Agreement-YWCA 2024-2025 for \$118,375.00

Motion by Mary Pollett, second by Patti Andrade Aye: Jeremy Barousse, Mary Pollett, Jim Zito, Patti Andrade

Absent: Dr. Stan Rose

Final Resolution: Motion Carries

9. PERSONNEL

10. INFORMATIONAL ITEMS / MISC. UPDATES 10.1: Superintendent Update: Dr. Hawkins, Superintendent provided an update on several items and upcoming events throughout the district.

10.2 Trustee Update

11. FUTURE AGENDA ITEMS

12. FUTURE MEETINGS

Information: 12.1 May 11th (Special Board Meeting), June 20th, June 27th (Special Board Meeting), August 15th

13. ADJOURNMENT

A motion to adjourn was made by Jim Zito, second by Mary Pollett at 10:15 p.m.

The May 9, 2024 Board of Trustees Meeting adjourned at 10:15 p.m.

Entered into Official Records of Evergreen School District

Dr. Antoine Hawkins, Superintendent/Secretary Ex-Oficio



EESD Behavior Expectations and Matrix

Creating Safe and Supportive Learning Environments

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District Expectations For Student Success

Welcome to Evergreen School District, where we believe in fostering a dynamic and inclusive learning environment that empowers students to reach their full potential. Our commitment to student success is reflected in the district expectations that serve as a guiding framework for both academic and personal growth.

At the heart of our educational philosophy is the belief that each student possesses unique talents, abilities, and potential waiting to be unleashed. Our district expectations are designed to create a supportive and challenging atmosphere where students can thrive academically, socially, and emotionally. To that end, the District is committed to helping schools develop a Multi-tiered System of Support that focuses on meeting the academic, social, and emotional needs of students.

We recognize that success goes beyond just academic achievements. Our holistic approach to education encompasses the development of critical thinking, communication skills, and a strong sense of community engagement. By nurturing these qualities, we aim to prepare our students not only for academic excellence but also for the challenges and opportunities they will encounter in their future endeavors.

In this document, you will find a comprehensive overview of the district expectations that outline the standards and behaviors we encourage for student success. Whether it is in the classroom, on the playing field, or within the community, we aspire to instill a sense of responsibility, resilience, and a lifelong love for learning in each student.

It is only with the understanding, collaboration and cooperation of everyone who has a stake in the education of our youth that we can succeed in creating learning environments that are conducive to optimum academic achievement for all students. We invite parents, educators, and the entire community to join hands in supporting our students on their educational journey. Together, let us create an environment where every student can flourish and achieve their dreams.

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Glossary of Terms

RIGHTS AND RESPONSIBILITIES OF STUDENTS, PARENTS/CAREGIVERS, EDUCATORS, AND ADMINISTRATORS

The education of the district's students is a shared responsibility. The Superintendent or designee shall work collaboratively to determine appropriate roles and responsibilities of parents/caregivers, school staff, and students for continuing the intellectual, physical, emotional and social development and well-being of students at each school site, including the means by which the schools and parents/caregivers can help students achieve academic and other standards of the schools.

RIGHTS OF STUDENTS

- To attend school and classes, unless removed under the process as specified in the Education Code and District policies and procedures.
- To be informed about school and District policies and regulations pertaining to students.
- To receive appropriate educational programs designed to meet the individual needs of students.
- To attend school in an academic and social climate that is free from fear and violence.
- To receive fair and reasonable treatment from those who are responsible for enforcing standards of student conduct.
- To examine personal records upon reaching the age of 16, with the assistance of a certificated staff member for proper explanation.
- As specified in Education Code 46010.1, "any pupil in grades 7 to 12, inclusive may be excused from school for the purpose of obtaining confidential medical services without the consent of the pupil's parent/guardian."

RESPONSIBILITIES OF STUDENTS

BE SAFE

- I am personally responsible for being safe at school and all school activities.
- I will follow appropriate standards of dressing and/or grooming during school.
- I will report any known safety hazards or concerns to school staff.
- I will help maintain a clean and safe campus that is free of graffiti, weapons, and drugs.
- I will report any bullying or harassment to school staff.
- I will avoid conflicts and physical or verbal aggression.
- I will not trespass on other school campuses (while school is in session) or (without official school business).

BE RESPECTFUL

- I will treat others the way I want to be treated.
- I will follow the classroom rules/school rules and be a model of good behavior.
- I will treat people fairly and respect their rights.
- I will take care of private and public property.
- I will be honest with myself and with others.
- I will avoid spreading rumors or gossip verbally or electronically.
- I will thoughtfully consider each person's right to be different and I will look for the good in others.

BE RESPONSIBLE

- I will take responsibility for my actions.
- I will carefully choose how I respond to others.
- I will try my best in everything I do.
- I will come to school regularly and on time, ready to learn.
- I will participate in building a positive school community.
- I will use electronic devices and school computers safely, respectfully, and responsibly.
- I will return what I borrow to the same person, in the same condition.

RIGHTS OF PARENTS/CAREGIVERS

- To be informed of District policy and school rules and regulations related to their child/children.
- Parents/Caregivers may observe instructional and other school activities that involve their child upon written request. The school administrator or designee shall arrange for parental observation of a class or activity in a reasonable time frame and in accordance with Board policy and administrative regulations.
- To inspect their child's school records with the assistance of a certificated staff member for proper explanation.
- To be informed of significant facts and school action of their student's behavior and academic progress.

RESPONSIBILITIES OF PARENTS/CAREGIVERS

As a Parent / Caregiver, I will:

- Make sure my child attends school regularly and on time, except when ill; has adequate sleep and nutrition, practices proper personal hygiene and wears appropriate clothing.
- Provide a safe and caring environment for my child at home.
- Motivate my child, set high expectations and enforce rules at home.
- Encourage my child's active engagement in interesting and challenging work at school and at home.
- Actively participate in efforts to improve my child's behavior when necessary, by assisting school personnel in planning and implementing a prescriptive program.
- Communicate regularly with teachers about their child's progress in school.
- Be familiar with District policies and school rules and regulations.
- Provide the school with a current emergency telephone number where a parent/caregiver or a responsible adult may be reached at all times.
- Make provisions for off-campus supervision for the student in the case of suspension, illness or accident.
- Participate in community event opportunities at school which improve learning and support the formation of partnerships with the school and the greater community.

RIGHTS OF EDUCATORS

- To expect students to behave in a manner which will support learning for themselves and for other students.
- To teach with minimal interruptions.
- To teach in an environment that is conducive to learning.
- To receive parental support related to academic and social progress of students.
- To suspend a student from class within the limits of the law (Ed Code 48910).
- To be informed of the reason a student is administratively transferred, as well as, disciplinary and attendance issues that may interfere with the student learning.
- To be informed of a student's record of behavior that may affect classroom teaching objectives.
- To receive administrative support when enforcing rules designed to provide appropriate school and classroom climate.
- To work in a safe and healthy environment.

RESPONSIBILITIES OF EDUCATORS

- Provide a safe and caring environment for all students on a daily basis.
- Motivate students, set high expectations and enforce rules equitably.
- Encourage students' active engagement in interesting and challenging work.
- Communicate regularly with families about their child's progress in school prior to administrators first contact home.
- Participate in professional development opportunities which improve teaching and learning.
- Support the formation of partnerships with families and the community by taking on an active role in home/school communication.
- Provide assistance to families on what they can do to support their child's learning.

RIGHTS OF ADMINISTRATORS

- To expect students to behave in a manner which will positively contribute to and with the educational programs and related student activities offered by the school.
- To partner with and receive family support related to academic, social, and behavioral progress
 of students while acting in loco parentis.
- To receive support from all school employees and parents/caregivers in maintaining campus control.
- In accordance with Ed Code and Board Policy, Administrators have the right to search any
 individual student, their property, or district property under his/her control when there is a
 reasonable suspicion that the search will uncover evidence that he/she is violating the law. The
 types of student property that may be searched by school officials include, but are not limited
 to lockers, desks, purses, backpacks, student vehicles parked on district property, cellular
 phones, or other electronic communication devices. (Ed Code 49050, BP/AR 5145.12)
- Maintain accountability of all stakeholders.
- To discipline, including suspend, recommend exclusion, expulsion or exemption, within the limits of the law.

RESPONSIBILITIES OF ADMINISTRATORS

- To ensure and maintain an equitable and safe learning environment for all students and staff.
- To be a positive role model for the expectations set for the school and make the school a welcoming place.
- To provide leadership that will establish, encourage and promote good quality, rigorous instruction, expectations and an effective learning environment.
- To support staff members in enforcing school and district rules and regulations including due process timelines.
- To hold students accountable for their conduct and attendance and to take prompt, appropriate action towards those students who misbehave, are excessively absent, or are truant.
- To grant parents/caretakers with proper authorization access to pupil records.
- To develop and implement procedures for student assessment and placement into appropriate educational programs.
- To inform staff of the process and general functioning of School Conferences, District Administrative Hearing Panel and the School Attendance Review Board.
- To inform staff of the progressive discipline policy that aligns with the school and district.
- When school is in session to acknowledge within 48 hours, direct phone or email contact from parents/caregivers or community members regarding a specific matter related to their students or other issues of concern. The acknowledgment will include either a response to the concern or a date by which a response will be provided.

ELEMENTARY BEHAVIOR MATRIX

The Behavior Matrix is a guideline for possible intervention and disciplinary action.

Whenever possible, the lowest level of consequences and intervention should be used first.

Education Codes 48900(a) - 48900.7

Education Code 48900.5 states Suspension shall be imposed only when other means of correction fail to bring about proper conduct.

- Suspension may occur on the first offense only if "the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process."
- Other Means of Correction (OMC) should be utilized as a first choice in all circumstances where outlined. Refer to the <u>Other Means of Correction (OMC) Chart</u> for additional means of corrections. (If appropriate, the administrator is not limited to one OMC per occurrence.)

Education Code 48900(a) – 48900.7 offenses

• For these charges, the school has jurisdiction for those behaviors occurring: while on school grounds; while going to or coming from school; during the lunch period, whether on or off the campus; and during or while going to or coming from a school activity. Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing 48915(a) and (c) charges.

Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

*Notify parent/caregiver for every violation of educational code.

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(a)(1)	Physical Injury Caused, attempted to cause, or threatened to cause physical injury to another person	1 or 2	 OMC Notify Parent/Caretaker Parent/Caretaker Conference Reflection sheet Role playing utilized with student Loss of Recess or Privilege Reteach Expectations 	OMC and/or 1 day in school suspension, where student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling for coping strategies • Referral to Social Skills Group	OMC and/or 1-3 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(a)(2)	Force/Violence Willfully used force or violence upon the person of another, except in self-defense	1 or 2	OMC Notify Parent/Caretaker Parent/Caretaker Conference Reflection sheet Role playing utilized with student Loss of Recess or Privilege Reteach Expectations	OMC Parent/Caretaker Conference Behavior Contract 1 Day Suspension Check in/check out In-House Suspension with Learning Assignment Referral to counseling for coping strategies Referral to Social Skills Group	 OMC Referral to Social Skills Group 1-3 Day out of school Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
*Possession of a firearm may result in charge of 48915 (c)(1) *Possession of an explosive that has the potential to cause major damage may result in charge of 48915 (c)(5)	Dangerous Objects Possessed, sold, or furnished a firearm, knife, explosive, or other dangerous object Knife is less than 3.5 inches and non-locking blade Explosive has the potential to cause minor damage (example: fire cracker, pop-its).	2	Notify Parent/Caretaker Parent Conference Learning Assignment done during recess and free times Confiscation of item	OMC and/or 0-1 day in school suspension, where student may be required to check in with administration before returning to class. Behavior Contract Consider including backpack checks Refer to SST Parent/Caretaker Conference Community Service May notify law enforcement	OMC and/or 1-3 Day out of school Suspension may be required to check in with administration upon return,
*Sale of a controlled substance may result in charge of 48915 (c)(3)	Under the Influence Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, alcoholic beverage, intoxicant	2	Send student to health office for review by School Nurse or other medical professional OMC Notify Parent/Caretaker Reflection sheet Referral to Counseling Referral to SST/CARE team Referral to CPS Learning Assignment	Send student to health office for review by School Nurse or other medical professional OMC and/or 1 day in school suspension with learning assignment, may be required to check in with administration upon return Parent/Caretaker conference Behavior Contract Safety Plan or Behavior	Send student to health office for review by School Nurse or other medical professional OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return Principal's Conference May notify Law Enforcement Recommendation for expulsion if principal finds

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
			*Student may be sent home for illness if they are unable to attend class due to health ailment (Not a suspension)	Intervention Plan (BIP) Daily Behavior Form Check In / Check Out Referral to CPS *Student may be sent home for illness if they are unable to attend class due to health ailment (Not a suspension)	expulsion is appropriate due to circumstances *Student may be sent home for illness if they are unable to attend class due to health ailment (Not a suspension)
*Sale of a controlled substance may result in charge of 48915 (c)(3)	Controlled Substance Unlawfully offered, arranged, or negotiating to sell a controlled substance, alcoholic beverage, intoxicant of any kind, either sold, delivered, furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as controlled substance, alcoholic beverage, or intoxicant.	2	OMC Reflection sheet Referral to Counseling Parent/Caretaker notification Referral to SST/CARE team Referral to CPS Learning Assignment	OMC and/or 1 day in school suspension with learning assignment, may be required to check in with administration upon return • Parent/Caretaker conference • Behavior Contract • Consider including backpack checks • Safety Plan or Behavior Intervention Plan (BIP) • Daily Behavior Form • Check In / Check Out	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return Principal's Conference May notify Law Enforcement Recommendation for expulsion if principal finds expulsion is appropriate due to circumstances
*Robbery or extortion may result in charge of 48915 (a)(1) (D)	Robbery/Extortion Committed or attempted to commit robbery or extortion	2	OMC Notify Parent/Caretaker Reflection sheet Referral to Counseling Behavior Agreement Referral to SST/CARE team	OMC and/or 1 day out of school suspension, may be required to check in with administration upon return Parent Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check Out	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return Principal's Conference May notify Law Enforcement Recommendation for expulsion if principal finds expulsion is appropriate due to circumstances
48900(f)	Damage to School/ Private Property Caused or attempted to cause damage to school or private property.	2	OMC Notify Parent/Caretaker Reflection sheet Referral to Counseling Parent/Caretaker notification	OMC and/or 1 day in school suspension with a learning assignment, may be required to check in with administration before return to class	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return May notify Law Enforcement if

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
			 Behavior Agreement Referral to SST/CARE team Campus/classroom clean-up Learning assignment Restorative Conversation 	 Parent Teacher conference Behavior Contract Behavior Intervention Plan Daily Behavior Form Check In / Check Out Campus/classroom clean-up Restorative conference 	damage was of significant value Campus/classroom clean-up
48900(g)	Stole/Steal Property Stole, or attempting to steal school property or private property	2	OMC Reflection sheet Referral to Counseling Parent/Parent/Caretaker notification Behavior Agreement Referral to SST/CARE team Restorative Conversation	OMC or 1 day out of school suspension, may be required to check in with administration upon return Parent Teacher conference Behavior Contract Behavior Intervention Plan Daily Behavior Form Check In / Check Out Restorative conference	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return May notify Law Enforcement if damage was of significant value Campus/classroom clean-up
48900(h)	Tobacco Tobacco or tobacco products (possessed, used)	1	Send student to health office for review by School Nurse or other medical professional OMC Notify Parent/Caretaker Reflection sheet Referral to Counseling Referral to SST/CARE team Referral to CPS Learning Assignment	OMC and/or 1 day in school suspension, may be required to check in with administration upon return • Parent/Caretaker conference • Behavior Contract • Consider including backpack checks • Behavior Intervention Plan • Safety Plan • Daily Behavior Form • Check In / Check Out	OMC and/or 1-3 day in/out of school suspension, may be required to check in with administration upon return • Principal's Conference • Referral to Cessation Program
48900(i)	Obscene Act/ Profanity/Vulgarity Committed an obscene act or engaged in habitual profanity or vulgarity	2	OMC Reflection sheet Referral to Counseling Parent/Caretaker notification Behavior Agreement Referral to SST/CARE team Restorative Conversation	OMC or 1 day in/out of school suspension, may be required to check in with administration upon return Parent Teacher conference Behavior Contract Behavior Intervention Plan Daily Behavior Form Check In / Check Out	OMC and/or 1-3 day in/out of school suspension, may be required to check in with administration upon return • May notify Law Enforcement if damage was of significant value

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
				Restorative conference	
48900(j)	Drug Paraphernalia Unlawfully possessed or unlawfully offered, arranged or negotiated to sell drug paraphernalia	2	OMC Reflection sheet Referral to Counseling Parent/Caretaker notification Referral to SST/CARE team Referral to CPS Learning Assignment	OMC and/or 1 day in school suspension with learning assignment, may be required to check in with administration upon return • Parent/Caretaker conference • Behavior Contract • Consider including backpack checks • Safety Plan or Behavior Intervention Plan • Daily Behavior Form • Check In / Check Out	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return, • Principal's Conference • May notify Law Enforcement • Recommendation for expulsion if principal finds expulsion is appropriate due to circumstances
48900k(1) 48900k(3) 48900k(4) Cannot be used for Grades TK-8	Defiance/Disruption Willful defiance and/or disruption of school activities and/or the learning environment (Effective July 1, 2024. Can not be used TK-12 grades)		See 48900(k) chart	See 48900(k) chart	See 48900(k) chart
48900(I)	Stolen Property/ Private Property Knowingly received stolen school property or private property	2	OMC Reflection sheet Referral to Counseling Parent/Parent/Caretaker notification Behavior Agreement Referral to SST/CARE team Restorative Conversation	OMC or 1 day out of school suspension, may be required to check in with administration upon return Parent Teacher conference Behavior Contract Behavior Intervention Plan Daily Behavior Form Check In / Check Out Restorative conference	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return • May notify Law Enforcement if damage was of significant value • Campus/classroom clean-up
48900(m)	Imitation Firearm Possession of an imitation firearm, means a replica of a firearm that is similar in physical	2	 OMC Notify Parent/Caretaker Parent Conference Learning Assignment done during recess and free times 	OMC and/or 0-1 day in school suspension, student may be required to check in with administration before returning to class.	OMC and/or 1-3 Day out of school Suspension may be required to check in with administration upon return, Principal's Conference

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm		Confiscation of item	Behavior Contract Consider including backpack checks Refer to SST Parent/Caretaker Conference Community Service Confiscation of item	Behavior Contract Consider including backpack checks Confiscation of item
48900(n)	Sexual Assault/Battery Committed or attempted to commit a sexual assault or committed a battery *First occurrence or minor offense	2	 OMC Notify Parent/Caretaker Parent/Caretaker Conference Reflection sheet No contact contract Role playing utilized with student Loss of Recess or Privilege Reteach Expectations Referral to Social Skills Group/Counseling May consider 48915(c)(4) & Glossary of Terms 	OMC and/or 1 day in school suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group	OMC and/or 1-3 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
48900(o)	Harassed, threatened, intimidated a witness Harassed, threatened, or intimidated a pupil who is a witness in a school disciplinary proceeding for the purpose of intimidation or retaliation	2	OMC and/or 0-1 day in school suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference No contact contract Role playing utilized with student Loss of Recess or Privilege Referral to Social Skills Group/Counseling Change of Class	OMC and/or 1-2 days in school suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group	OMC and/or 1-3 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
48900(p)	Prescription Drug/Soma Unlawfully offered, arranged to sell, negotiated to sell, or	2	OMC Reflection sheet Referral to Counseling Parent/Caretaker notification	OMC and/or 1 day in school suspension with learning assignment, may be required to check in with	OMC and/or 1-3 day out of school suspension, may be required to check in with administration upon return,

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	sold the prescription drug Soma		 Referral to SST/CARE team Referral to CPS Learning Assignment 	administration upon return Parent/Caretaker conference Behavior Contract Consider including backpack checks Safety Plan or Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check Out	 Principal's Conference May notify Law Enforcement Recommendation for expulsion if principal finds expulsion is appropriate due to circumstances
48900(q)	Hazing Engaged in, or attempted to engage in hazing. For purposes of this subdivision, "hazing"	2	OMC and/or 0-1 day in school suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference Role playing utilized with student Loss of Recess or Privilege Referral to Social Skills Group/Counseling Change of Class Suspended from activity/sport	OMC and/or 1-2 days in school suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group • Removal from activity/sport	OMC and/or 1-3 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
48900(r)	Bullying Engaged in an act of bullying, including, but not limited to electronic act, directed toward a pupil or school personnel	2	OMC and/or 0-1 day in school suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference Role playing utilized with student Loss of Recess or Privilege Referral to Social Skills Group/Counseling Suspended from activity/lesson Technology agreement	OMC and/or 1-2 days in school suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group • Loss of technology	OMC and/or 1-3 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
48900(t)	Aids or Abets	2	OMC and/or 0-1 day in school	OMC and/or 1-2 days in school	OMC and/or 1-3 Day out of

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	A pupil who aids or abets, infliction or attempted infliction of physical injury to another person		suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference Role playing utilized with student No contact contract Loss of Recess or Privilege Referral to Social Skills Group/Counseling Suspended from activity	suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group • Removal from activity	school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 1-3 Day Suspension May be required to check in with administration upon re-entry May notify Law Enforcement Refer to SST
48900.2	Sexual Harassment Committed sexual Harassment *Grades 4 – 12 only	3	OMC and/or 0-1 day in school suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference No contact contract Check In / Check Out Role playing utilized with student Loss of Recess or Privilege Referral to Social Skills Group/Counseling Suspended from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) Consider 48915(c)(4) & Glossary of Terms	OMC and/or 1-2 days in school suspension, student may be required to check in with administration before returning to class. • Parent/Caretaker Conference • Behavior Contract • No contact contract • Check In / Check Out • In-House Suspension with Learning Assignment • Referral to counseling • Referral to Social Skills Group • Removal from activity • Change of class with notifying new classroom teacher (student will be on a new behavior contract) • May notify Law Enforcement	OMC and/or 2-5 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 2-5 Day Suspension May be required to check in with administration upon re-entry Notify Law Enforcement Refer to SST Transfer student to different site within district (notify new site/teacher with student behavior)
48900.3	Hate Violence Caused, attempted to cause, threatened to cause, or participated in any act of hate violence	3	OMC and/or 0-1 day in/out school suspension, where student may be required to check in with administration before returning to class.	OMC and/or 1-2 days in/out school suspension, student may be required to check in with administration before returning to class.	OMC and/or 2-5 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	*Grades 4 – 12 only		 Notify Parent/Caretaker Parent/Caretaker Conference No contact contract Check in/check out In-House Suspension with Learning Assignment Referral to Social Skills Group/Counseling Suspended from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) Complete a threat assessment 	Parent/Caretaker Conference Behavior Contract No contact contract Check In / Check Out In-House Suspension with Learning Assignment Referral to counseling Referral to Social Skills Group Removal from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) May notify Law Enforcement	 2-5 Day Suspension May be required to check in with administration upon re-entry Notify Law Enforcement Refer to SST Transfer student to different site within district (notify new site/teacher with student behavior)
48900.4	Harassment/Threats/ Intimidation Engaged in harassment, threats, or intimidation, directed against school District personnel or pupils *Grades 4 – 12 only These threats are sufficiently severe or pervasive and have the effect of creating an intimidating or hostile educational environment.	3	OMC and/or 0-1 day in/out school suspension, where student may be required to check in with administration before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference No contact contract Check in/check out In-House Suspension with Learning Assignment Referral to Social Skills Group/Counseling Suspended from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) May notify Law Enforcement Complete a threat assessment	OMC and/or 1-2 days in/out school suspension, student may be required to check in with administration before returning to class. Parent/Caretaker Conference Behavior Contract No contact contract Check In / Check Out In-House Suspension with Learning Assignment Referral to counseling Referral to Social Skills Group Removal from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) May notify Law Enforcement	OMC and/or 2-5 Day out of school Suspension, may be required to check in with administration upon return Referral to Social Skills Group 2-5 Day Suspension May be required to check in with administration upon re-entry Notify Law Enforcement Refer to SST Transfer student to different site within district (notify new site/teacher with student behavior)
48900.7	Terroristic threats Terroristic threats against school officials, school property or both	3	OMC and/or 0-1 day in/out school suspension, where student may be required to check in with administration	OMC and/or 1-2 days in/out school suspension, student may be required to check in with administration before returning to	OMC and/or 2-5 Day out of school Suspension, may be required to check in with administration upon return

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
with the to the tl an imm of executhat per for their family's protecti	threats are made e intent to convey threatened person nediate prospect cution, causing rson to be afraid r safety, their is safety, ion of school, or personal ty,		before returning to class. Notify Parent/Caretaker Parent/Caretaker Conference No contact contract Check in/check out In-House Suspension with Learning Assignment Referral to Social Skills Group/Counseling Suspended from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) May notify Law Enforcement Complete a threat assessment	class. Parent/Caretaker Conference Behavior Contract No contact contract Check In / Check Out In-House Suspension with Learning Assignment Referral to counseling Referral to Social Skills Group Removal from activity Change of class with notifying new classroom teacher (student will be on a new behavior contract) Notify Law Enforcement	 Referral to Social Skills Group 2-5 Day Suspension May be required to check in with administration upon re-entry Notify Law Enforcement Refer to SST Transfer student to different site within district (notify new site/teacher with student behavior)

Education Codes 48915(a)

Education Code 48915 (a) offenses, which are more serious in nature and will result in mandatory suspension and possible recommendation for expulsion from the Evergreen School District. For 48915 (a) charges, the administrator has jurisdiction for behaviors occurring: while on school grounds and at a school activity. Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing a 48915 (a) charge.

Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

Ed Code	Violation	Severity Level	1st Occurance Intervention	Additional Occurrences Intervention	Expulsion (expected)
48915(a)(1)(A)	Serious Physical Injury Causing serious physical injury to another person except in self- defense "Serious Physical Injury" means serious physical impairments of physical condition, such as loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring suturing, and serious disfigurement.	3	OMC or possible 1-2 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC or possible 3-5 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	Shall recommend unless particular circumstances render inappropriate (Expulsion Expected) The recommendation for expulsion shall be based on 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 pupil causes a continuing danger to the physical safety of the pupil or others [see Section
48915(a)(1)(B)	Knife/Dangerous Object Possession of any knife, or other dangerous object of no reasonable use to the pupil Knife is longer than 3.5 inches and/or locking blade	2	OMC or possible 1-2 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC or possible 3-5 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	48915(b)].

Ed Code	Violation	Severity Level	1st Occurance Intervention	Additional Occurrences Intervention	Expulsion (expected)
48915(a)(1)(C)	Controlled Substance Unlawful possession of any controlled substance except for the first offense of possession of not more than one avoirdupois ounce of marijuana	2	OMC or possible 1-2 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC or possible 3-5 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	
48915(a)(1)(D)	Robbery or Extortion Robbery or Extortion (A) "Robbery" means the taking of personal property in possession of another, from his person or immediate presence, and against his will, accomplished by force or fear. (B) "Extortion" means the taking of property from another person without their consent. Extortion is induced by a threat of force or wrongful use of fear. Extortion may occur over a period of time. Included in this category are written or oral threats to take property.	3	OMC or possible 1-2 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC or possible 3-5 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	
48915(a)(1)(E)	Assault or Battery/ School Employee Assault or battery upon any school employee	3	OMC or possible 1-2 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds that the	OMC or possible 3-5 day out of school suspension, Principal's Conference, may notify Law Enforcement, and possible recommendation for expulsion if the Principal finds	

Ed Code	Violation	Severity Level	1st Occurance Intervention	Additional Occurrences Intervention	Expulsion (expected)
	"Assault" means an unlawful attempt to commit a violent injury on the person of another. "Battery" means the willful and unlawful use of force or violence upon the person of another.		expulsion is appropriate due to the particular circumstance	that the expulsion is appropriate due to the particular circumstance	

Education Codes 48915(c)

Education Code 48915(c) violations represent the most egregious offenses and will result in the mandatory recommendation for expulsion from Evergreen School District. For 48915(c) violations, the behavior must have occurred at school or at a school activity.

Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing a 48915(c) charge. Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

Ed Code	Violation	Initial Occurrence	Expulsion Must Recommend (Expulsion Mandatory)
48915(c)(1)	Possessing, selling, or otherwise furnishing a firearm. *Must be verified/witnessed/observed by District employee Possessing firearm when a district employee verified firearm possession and when student did not have prior written permission from a certificated employee which is concurred with by the principal or designee. Selling or otherwise furnishing a firearm. Selling: to exchange possession and ownership of goods or property for money or something of value. Firearm: a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person.	5 day out of school suspension, Notify Director of Child Welfare and Attendance, notify Law Enforcement and mandatory recommendation for expulsion	Behavior must occur at the school or at a school activity, not on the way to school, or on the way home. Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing a 48915(c) charge. Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.
48915(c)(2)	Brandishing a knife Brandishing: "with reference to a dangerous weapon (including a firearm) means that all or part of the weapon was displayed, or the presence of the weapon was otherwise made known to another person, in order to intimidate that person, regardless of whether the weapon was directly visible to that person. Accordingly, although the dangerous weapon does not have to be directly visible, the weapon must be present."	5 day out of school suspension, Notify Director of Child Welfare and Attendance, notify Law Enforcement and mandatory recommendation for expulsion	

Ed Code	Violation	Initial Occurrence	Expulsion Must Recommend (Expulsion Mandatory)
48915(c)(3)	Unlawful selling a controlled substance listed in Health and Safety Code Section 11053 et. seq. Selling: to exchange possession and ownership of goods or property for money or something of value.	5 day out of school suspension, Notify Director of Child Welfare and Attendance, notify Law Enforcement and mandatory recommendation for expulsion	
48915(c)(4)	Committing or attempting to commit sexual assault or battery Sexual Assault: Committed or attempted to commit an act of sexual battery, rape, or statutory rape, lewd and lascivious conduct, molestation, etc. Sexual Battery: As defined in Penal Code Section 243.4(d)(1): "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for specific purpose of sexual arousal, sexual gratification, or sexual abuse." Intimate part means the "sexual organ, anus, groin, or buttocks of any person, and the breast of a female."	5 day out of school suspension, Notify Director of Child Welfare and Attendance, notify Law Enforcement and mandatory recommendation for expulsion	
48915(c)(5)	Possession of an explosive Explosives: are chemical compounds or mixtures that undergo rapid burning or decomposition with the generation of large amounts of gas and heat, leading to sudden pressure effects.	5 day out of school suspension, Notify Director of Child Welfare and Attendance, notify Law Enforcement and mandatory recommendation for expulsion	

EDUCATION CODE 48900(k) Offenses

Willful defiance and/or disruption of school activities and/or the learning environment

The 48900(k) charges result from behaviors that school staff may identify as "Willful defiance and/or disruption of school activities and/or the learning environment". EESD has identified "Disruptive Behaviors" listed below.

Effective January 2015, Assembly Bill No. 420 eliminates the authority to suspend a pupil enrolled in Kindergarten or any of grades 1 to 3, inclusive, and the authority to recommend for expulsion a pupil enrolled in Kindergarten or any of grades 1 to 12, inclusive, for disrupting school activities or otherwise defying the valid authority of those school personnel engaged in the performance of their duties.

Effective July 2020, Senate Bill No. 419 added grades 4-5 and 6-8 shall not be suspended and K-12 recommended for expulsion.

Ed Code	Disruptive Behavior	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(k)	Selling unauthorized items	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavioral contract w/student, parent/guardian, teacher, admin. signatures.
48900(k)	Major technology violation (intentional/habitual)	OMC Parent/Guardian contact and review technology use agreement with student and parent. Possible reflection sheet and/or role playing utilized with student.	OMC Possible restriction or close monitoring of technology usage. Create individual contract for student use of technology w/student and parent/guardian signatures.	OMC Admin referral and other means, monitoring of technology use. Possible loss of use.
48900 (k)	Gambling	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavioral contract w/student, parent/guardian, teacher, admin. signatures.
48900 (k)	Habitual internet misuse, hacking	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavior contract w/student, parent/guardian, teacher, admin. signatures.

Ed Code	Disruptive Behavior	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900 (k)	Spitting at someone with intent	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavior contract w/student, parent/guardian, teacher, admin. signatures.
48900 (k)	Habitual refusal to follow directions or rules	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavior contract w/student, parent/guardian, teacher, admin. signatures.
48900 (k)	Forgery (e.g., official signatures)	OMC Warning and parent/guardian contact and response. Possible reflection sheet and/or role playing utilized with student.	OMC Conference with Admin/parent/guardian/teacher and student. Inquire about any needs and consult with a specialist as needed.	OMC SST and/or create individual contract or behavior contract w/student, parent/guardian, teacher, admin. signatures.
48900 (k)	Cheating or plagiarism	OMC Warning and parent/guardian contact (Retake test/assignment to determine ability level)	OMC Parent/Guardian/Teacher Conference (Grade adjustment on test/assignment)	OMC Parent/Guardian/Admin Conference (No Grade ("zero") on test/assignment)
48900 (k)	Unauthorized use of electronic devices on campus	OMC Warning and parent contact Review responsible use policy -Device held until end of day and released to student	OMC Parent/Guardian Notification -Device held until end of day and released to parent	OMC Parent/Guardian/Admin Conference -Check In / Check Out
48900 (k)	False fire alarm and/or 911 calls.	OMC Warning and parent/guardian contact (emphasize safety concerns)	OMC Parent/Guardian/Admin Conference OMC ex. Student presents impact of action to Admin	OMC Parent/Guardian/Admin Conference OMC ex. Student presents impact of action to peers
48900 (k)	Leaving classroom without permission	OMC Warning and parent/guardian contact	OMC Parent/Guardian/Teacher Conference (emphasize safety concerns)	OMC Administrator Conference
48900 (k)	Leaving campus without permission.	OMC Parent/guardian Conference (emphasize safety concerns)	OMC SST -Check In / Check Out	OMC Administrator Conference -Behavior Contract
48900 (k)	Toys and personal	OMC	OMC	OMC

Ed Code	Disruptive Behavior	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	items that cause distraction (e.g., toy squirt guns, Pokemon cards)	Warning and teacher/ parent/guardian contact Teacher hold item for parent pick up	Parent/guardian/Teacher contact Teacher hold item for parent pick up	Administrator Conference
48900 (k)	Realistic replicas of dangerous objects (Does not shoot metal projectile)	OMC Warning Admin Parent/Guardian Contact Admin hold item for parent pick up.	OMC Administrator Conference -Check In / Check Out	OMC Consider SST
48900 (k)	Running away from school authorities (Stays on Campus)/ Failure to identify oneself or giving false identity to school personnel	OMC Warning	OMC Parent/Guardian Contact -Restorative conversation	OMC Consider SST
48900 (k)	Loitering on or about campus without an apparent and lawful purpose.	OMC Warning and parent/guardian contact	OMC Administrator Conference	OMC Administrator Conference -Behavior Contract
48900 (k)	School bus misbehavior	OMC Warning and parent/guardian contact	OMC Administrator Conference -Behavior Contract -Temporary suspension of privileges	OMC Administrator Conference -Suspension of privileges

Elementary Other Means of Correction (OMC) / Alternatives to Suspension

Tier 1	Tier 2	Tier 3
Informal Student Conference -Teacher/Staff & Student -Admin & Student	Parent/Guardian Conference -Student & Parent	SST
Consult with Behavior Intervention Team (See Behavior Referral Process)	Behavior Intervention Plan/Behavior Support Plan	Functional Behavior Assessment
Reflective Conversation	Behavior Contract	Flexible Schedule/Activities
Reflection Sheet	Mentoring	Check in/Check out (CICO)
Role Playing Replacement Behavior	Flexible schedule	Behavior Contract
Restorative Conversation	Parent/Guardian escort student to/from school	Parent/Guardian Shadow
Parent Contact	Community Service -helping in another class during recess	No Contact Contract
Community Service -Campus Cleanup	Check in/Check out (CICO)	Follow up meeting with Admin
Referral to Counselor	Behavior Chart	Restitution
Visual Cues -"The Look" -Posters -Posted Expectations	Social Skills Groups	Involuntary Transfer
Review of Expectations	Referral to Counseling	Complete Threat Assessment
Social Groups	Class Suspension	
Learning Assignment	Buddy Class	
Letter of Apology	Parent Chaperone for Field Trip	
Buddy Class		
Walking Break -sensory walk		
Calming Room -physical activity to help with emotional regulation		
Detention		

Tier 1	Tier 2	Tier 3
Exclusion from unstructured activities -recess		
Official Warning		
Confiscation of Item		

MIDDLE SCHOOL BEHAVIOR MATRIX

The Behavior Matrix is a guideline for possible intervention and disciplinary action.

Whenever possible, the lowest level of consequences and intervention should be used first.

Education Codes 48900(a) - 48900.7

Education Code 48900.5 states Suspension shall be imposed only when other means of correction fail to bring about proper conduct.

- Suspension may occur on the first offense only if "the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process".
- Other Means of Correction (OMC) should be utilized as a first choice in all circumstances where outlined. Refer to the OMC Chart for additional Means of Corrections. (If appropriate, the administrator is not limited to one OMC per occurrence.)

Education Code 48900 (a) – 48900.7 offenses

• For these charges, the school has jurisdiction for those behaviors occurring: while on school grounds; while going to or coming from school; during the lunch period, whether on or off the campus; and during or while going to or coming from, a school activity. Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing 48915 (a) and (c) charges.

Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(a)(1)	Physical Injury Caused, attempted to cause, or threatened to cause physical injury to another person		 Parent/Caregiver contact OMC - Learning Workshop during lunch time (teach conflict resolution). No contact contract Restorative Conversation if both students agree. Connect student with counselor or social worker Work with parent/caregiver Change of class schedules 	 Parent/Caregiver contact Check In / Check out Behavior ContractBehavior support plan No contact contract 1-2 days Suspension: meeting with administrator upon return to school Referral to SST Team Change of class schedules 	 Parent/Caregiver contact 1-5 day Suspension Re-entry meeting and student supports including mental health No contact contract Notification of law enforcement if needed/Safety School Liaison Officer Change of class schedules

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(a)(2)	Force/Violence Willfully used force or violence upon the person of another, except in self-defense		 Parent/Caregiver contact OMC - Learning Workshop during lunch time (teach conflict resolution). No contact contract Restorative Conversation if both students agree. Connect student with counselor or social worker Work with family/guardian Change of class schedules 	 Parent/Caregiver contact Check In / Check out Behavior Contract/Behavior support plan No contact contract Suspension: meeting with administrator upon return to school Follow-up lessons with counselor Referral to SST Team 	 Parent/Caregiver contact 1-5 day Suspension Re-entry meeting and student supports including mental health No contact contract Notification of law enforcement if needed/Safety School Liaison Officer Change of class schedules
*Possession of a firearm may results in charge of 48915 (c)(1) *Possession of an explosive that has the potential to cause major damage may result in charge of 48915 (c)(5)	Dangerous Objects Possessed, sold, or furnished a firearm, knife, explosive, or other dangerous object Knife is less than 3.5 inches and non-locking blade		Reflection sheet Referral to Counseling Parent/Guardian notification Behavior Agreement Referral to SST/CARE team	OMC 1 day out of school suspension Required to check in with administration upon return Parent Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 5 Day suspension Recommendation for expulsion Notify Law enforcement Possible recommendation for expulsion
*Sale of a controlled substance may result in charge of 48915 (c)(3)	Under the Influence Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, alcoholic beverage, intoxicant		Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Brief Intervention Curriculum Stanford Toolkit (tobacco, marijuana Skills) TUPE Lessons/Brief Intervention Behavior Agreement	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check in / Check out	 OMC 2-5 days out of school suspension. May notify Law Enforcement Possible recommendation for expulsion if the principal finds that the expulsion is appropriate due to the particular circumstance

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
			Referral to SST/CARE team Selling - suspension Student under influence - call Parent/Caregiver to go home for health/ safety issue		
*Sale of a controlled substance may result in charge of 48915 (c)(3)	Controlled Substance Unlawfully offered, arranged, or negotiating to sell a controlled substance, alcoholic beverage, intoxicant of any kind, either sold, delivered, furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as controlled substance, alcoholic beverage, or intoxicant.		Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Teach Conflict Resolution Skills Behavior Agreement Referral to SST/CARE team Research on Behavior Topics Stanford Toolkit for Cannabis Awareness and Prevention	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out Referral to Counseling	OMC 2-5 day out of school suspension May notify Law Enforcement, and possible recommendation for expulsion if the principal finds that the expulsion is appropriate due to the particular circumstance
*Robbery or extortion may result in charge of 48915 (a)(1) (D)	Robbery/Extortion Committed or attempted to commit robbery or extortion		Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Teach Conflict Resolution Skills Behavior Agreement Referral to SST/CARE team Reparation to Victim	OMC 1-2 days out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 2-5 day out of school suspension May notify Law Enforcement, and possible recommendation for expulsion if the principal finds that the expulsion is appropriate due to the particular circumstance
48900(f)	Damage to School/ Private Property Caused or attempted to cause damage to school or private property. (including Graffiti/Tagging)		OMC Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Teach Conflict Resolution Skills	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract	OMC 2-5 day out of school suspension, may be required to check in with administration upon return May notify Law Enforcement if damage was of significant

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
			Behavior Agreement Referral to SST/CARE team Reparation to School or Private Property Restorative Conversation	Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	value
48900(g)	Theft Stole, or attempting to steal school property or private property		OMC Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Teach Conflict Resolution Skills Behavior Agreement Referral to SST/CARE team Reparation to School or Private Property	OMC • 1-2 day out of school suspension • Required to check in with administration upon return • Parent/Caregiver Teacher conference • Behavior Contract • Behavior Intervention Plan (BIP) • Daily Behavior Form • Check In / Check out	OMC • 2-5 day out of school suspension, • May be required to check in with administration upon return • May notify Law Enforcement
48900(h)	Tobacco Tobacco or tobacco products (possessed, used)		Referral to counselor or social worker for reflection lesson Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Behavior Agreement Referral to SST/CARE team Stanford Toolkit for Tobacco Stanford Tool Kit for E-Cigs / Vapes	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 1-3 days out of school suspension
48900(i)	Obscene Act/ Profanity/Vulgarity Committed an obscene act or engaged in habitual profanity or vulgarity		OMC Restorative Circle Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Teach Conflict Resolution Skills Behavior Agreement Referral to SST/CARE team	OMC 1-2 day out of school suspension required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 2-5 day out of school suspension Required to check in with administration upon return May contact law enforcement

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900(j)	Drug Paraphernalia Unlawfully possessed or unlawfully offered, arranged or negotiated to sell drug paraphernalia		Referral to Brief Intervention Class (if available) Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Behavior Agreement Referral to SST/CARE team	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 1-3 days out of school suspension, May be required to check in with administration upon return
48900k(1) 48900k(3) 48900k(4) Cannot be used for Grades TK-8	Defiance/Disruption Willful defiance and/or disruption of school activities and/or the learning environment *Grades 9-12 only (Effective July 1, 2024, can not be used TK- 12 grades)		OMC See 48900 (k) chart Community Circle Refer to Counseling Behavior Agreement	• OMC See 48900 (k) chart	OMC See 48900 (k) chart
48900(I)	Stolen Property/ Private Property Knowingly received stolen school property or private property		OMC Restitution to School or Private Property Referral to Brief Intervention Class (if available) Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Behavior Agreement Referral to SST/CARE team	OMC 1-2 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 2-5 day out of school suspension Required to check in with administration upon return May notify Law Enforcement
48900(m)	Imitation Firearm Possession of an imitation firearm, means a replica of a firearm that is similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica		OMC 5 days out of school suspension May notify Law Enforcement Reflection Sheet Referral to Counseling Parent/Caregiver/Guardian notification Behavior Agreement	OMC S days out of school suspension, Notify law enforcement, recommendation for expulsion Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form	

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	is a firearm		Referral to SST/CARE team Research Report	Check In / Check out	
48900(n)	Sexual Assault/Battery Minor offense Committed or attempted to commit a sexual assault or committed a battery *First occurrence or minor offense		 OMC 1-3 day suspension Referral to Counseling Behavior Agreement No contact contract Parent/Caregiver/Guardian notification Possible referral to law enforcement Possible transfer to another school 	OMC 3-5 day out of school suspension, possible recommendation for expulsion Required to check in with administration upon return *May result in a charge of 48915 (c)(4) Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Check In / Check out	OMC S day out of school suspension Recommendation for expulsion, Notify Law Enforcement Result in a charge of 48915 (c)(4)
48900(o)	Harassed, threatened, intimidated a witness Harassed, threatened, or intimidated a pupil who is a witness in a school disciplinary proceeding for the purpose of intimidation or retaliation		OMC Referral to Counseling Behavior Agreement No contact contract Parent/Caregiver/Guardian notification Schedule Change	OMC 1 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Check In / Check out Possible transfer to another schools	OMC 1-3 day out of school suspension, Transfer to another school
48900(p)	Prescription Drug/Soma Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma		OMC 1-3 days out of school suspension Referral to Counseling Behavior Agreement Referral to SST/CARE team Parent/Caregiver/Guardian notification Recommendation for expulsion	OMC 5 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Recommendation for expulsion Check In / Check out	
48900(q)	<u>Hazing</u> Engaged in, or		OMC Reflection sheet	OMC 1-3 days out of school	OMC 3-5 day out of school

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	attempted to engage in hazing. For purposes of this subdivision, "hazing"		 Referral to Counseling Referral to SST/CARE team Parent/Caregiver/Guardian notification No contact contract Restorative Circle Schedule Change 	suspension • Required to check in with administration upon return • Parent/Caregiver Teacher conference • Behavior Contract • Behavior Intervention Plan (BIP) • No contact contract • Check In / Check out • Ongoing counseling	suspension, check in with administration upon return • Possible transfer to another school • Ongoing counseling
48900(r)	Bullying Engaged in an act of bullying, including, but not limited to electronic act, directed toward a pupil or school personnel		Reflection sheet Referral to Counseling Parent/Caregiver/Guardian notification No contact contract	OMC 1 day out of school suspension May be required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out Schedule change Restorative circle	OMC 1-3 day out of school suspension Required to check in with administration upon return May notify Law Enforcement
48900(t)	Aids or Abets A pupil who aids or abets, infliction or attempted infliction of physical injury to another person		OMC Referral to Counseling Parent/Caregiver/Guardian notification Behavior Agreement	OMC 1 day out of school suspension required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 3-5 day out of school suspension May be recommendations for expulsion or transfer to another campus
48900.2	Sexual Harassment Committed sexual Harassment *Grades 4 – 12 only		OMC Referral to Counseling Parent/Caregiver/Guardian notification Behavior Contract No contact contact	OMC 1 day out of school suspension Required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract	OMC 1-5 day out of school suspension May notify Law Enforcement and possible recommendation for expulsion if the Principal finds that the expulsion is

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
				Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	appropriate due to the particular circumstance
48900.3	Hate Violence Caused, attempted to cause, threatened to cause, or participated in any act of hate violence *Grades 4 – 12 only		OMC Referral to Counseling Parent/Caregiver/Guardian notification Behavior Contract No contact contract Referral to SST/CARE team	OMC 1 day out of school suspension Check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 1-5 day out of school suspension, May notify Law Enforcement and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance
48900.4	Harassment/Threats/ Intimidation Engaged in harassment, threats, or intimidation, directed against school District personnel or pupils *Grades 4 – 12 only		Referral to Counseling Parent/Caregiver/Guardian notification Behavior Contract No contact contract Referral to SST/CARE team	OMC 1 day out of school suspension required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out	OMC 1-3 day out of school suspension May notify Law Enforcement and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance
48900.7	Terroristic threats Terroristic threats against school officials, school property or both		Referral to Counseling Parent/Caregiver/Guardian notification Behavior Contract No contact contract Referral to SST/CARE team Threat assessment	OMC 1 day out of school suspension required to check in with administration upon return Parent/Caregiver Teacher conference Behavior Contract Behavior Intervention Plan (BIP) Daily Behavior Form Check In / Check out Threat assessment	OMC 1-3 day out of school suspension May notify Law Enforcement and possible recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance

Education Codes 48915(a)

Education Code 48915(a) offenses, which are more serious in nature and will result in mandatory suspension and possible recommendation for expulsion from the Evergreen School District. For 48915 (a) charges, the administrator has jurisdiction for behaviors occurring: while on school grounds and at a school activity. Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing a 48915 (a) charge.

Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48915(a)(1)(A)	Serious Physical Injury Causing serious physical injury to another person except in self-defense "Serious Physical Injury" means serious physical impairments of physical condition, such as loss of consciousness, concussion, bone fracture, protracted loss or impairment of function of any bodily member or organ, a wound requiring suturing, and serious disfigurement.		OMC 3-5 day out of school suspension, May notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC 5 day out of school suspension, May Notify Law Enforcement, Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	
48915(a)(1)(B)	Knife/Dangerous Object Possession of any knife, or other dangerous object of no reasonable use to the pupil Knife is longer than 3.5 inches and/or		OMC 1-3 day out of school suspension May notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC 3-5 day out of school suspension May Notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	• OMC

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	locking blade				
48915(a)(1)(C)	Controlled Substance Unlawful possession of any controlled substance except for the first offense of possession of not more than one avoirdupois ounce of marijuana		OMC 1-3 day out of school suspension May notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance Drug & Alcohol Workshops	OMC 3-5 day out of school suspension May notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance Drug & Alcohol Workshops	
48915(a)(1)(D)	Robbery or Extortion Robbery or Extortion (A) "Robbery" means the taking of personal property in possession of another, from his person or immediate presence, and against his will, accomplished by force or fear. (B) "Extortion" means the		OMC 3-5 day out of school suspension May notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	OMC S day out of school suspension, May Notify Law Enforcement Recommendation for expulsion if the Principal finds that the expulsion is appropriate due to the particular circumstance	
	taking of property from another person without their consent. Extortion is induced by a threat of force or wrongful use of fear. Extortion may occur over a period of time. Included in this category are written or oral threats to take property.				
48915(a)(1)(E)	Assault or Battery/ School Employee Assault or battery		OMC 3-5 day out of school suspension May notify Law Enforcement	OMC 5 day out of school suspension May Notify Law Enforcement Recommendation for expulsion if	

Ed Code	Violation	Severity Level	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	upon any school employee "Assault" means an unlawful attempt to commit a violent injury on the person of another. "Battery" means the willful and unlawful use of force or violence upon the person of another.		Recommendation for expulsion if the Principal finds that the expulsion is appropriate Due to the particular circumstance	the Principal finds that the expulsion is appropriate due to the Due to the particular circumstance	

Education Codes 48915(c)

Education Code 48915 (c) violations represent the most egregious offenses and will result in the mandatory recommendation for expulsion from Evergreen School District. For 48915(c) violations, the behavior must have occurred at school or at a school activity.

Administrators must consult with the Principal and Director of Child Welfare and Attendance before utilizing a 48915 (c) charge. Recommendation for expulsion must be reported to the Director of Child Welfare and Attendance by the second day of suspension.

Ed Code	Violation	Initial Occurrence
48915(c)(1)	Possessing, selling, or otherwise furnishing a firearm. *Must be verified/witnessed/observed by District employee	5 day out of school suspension Notify Director of Child Welfare and Attendance
48915(c)(2)	Brandishing a knife	Notify Law Enforcement Mandatory recommendation for expulsion
48915(c)(3)	Unlawful selling a controlled substance	
48915(c)(4)	Committing or attempting to commit sexual assault or battery	
48915(c)(5)	Possession of an explosive	

Definitions:

- **Brandishing:** "with reference to a dangerous weapon (including a firearm) means that all or part of the weapon was displayed, or the presence of the weapon was otherwise made known to another person, in order to intimidate that person, regardless of whether the weapon was directly visible to that person. Accordingly, although the dangerous weapon does not have to be directly visible, the weapon must be present."
- Explosives: are chemical compounds or mixtures that undergo rapid burning or decomposition with the generation of large amounts of gas and heat, leading to sudden pressure effects.
- **Firearm:** a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person.
- Selling: to exchange possession and ownership of goods or property for money or something of value.
- **Sexual Assault:** Committed or attempted to commit an act of sexual battery, rape, or statutory rape, lewd and lascivious conduct, molestation, etc.
- **Sexual Battery:** As defined in Penal Code Section 243.4(d)(1): "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for specific purpose of sexual arousal, sexual gratification, or sexual abuse." Intimate part means the "sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

EDUCATION CODE 48900(k) Offenses

Willful defiance and/or disruption of school activities and/or the learning environment

Education Code 48900(k) offenses. The 48900(k) charges result from behaviors that school staff may identify as "Willful defiance and/or disruption of school activities and/or the learning environment". EESD has identified "Disruptive Behaviors" listed below.

Effective January 2015, Assembly Bill No. 420 eliminates the authority to suspend a pupil enrolled in Kindergarten or any of grades 1 to 3, inclusive, and the authority to recommend for expulsion a pupil enrolled in Kindergarten or any of grades 1 to 12, inclusive, for disrupting school activities or otherwise defying the valid authority of those school personnel engaged in the performance of their duties.

Effective July 2020, Senate Bill No. 419 added grades 4-5 and 6-8 shall not be suspended and K-12 recommended for expulsion.

Ed Code	Disruptive Behavior	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
48900 (k)	Play fighting	Warning Review of Site Expectations Parent Notification	Learning Workshop Review of Site Expectations Parent Notification	Learning Workshop Review of Site Expectations Parent Notification Behavior Contract
	Cheating /Lying	Classroom Warning / Parent Notification Redo the assignment	Parent Notification by teacher Grade adjustment on the assignment	Parent Notification by teacher "Zero grade" on the assignment
	Plagiarism	Classroom Warning / Parent Notification Redo the assignment	Parent Conference by teacher Grade adjustment on the assignment Learning Workshop	Parent Notification by teacher "Zero grade" on the assignment Learning Workshop
	Leaving class/campus without permission	Warning Review of Site Expectations Parent Notification Restorative Conversation	Parent Notification Check-In / Check-Out (CICO)	Parent Conference Behavior Contract
	Inappropriate language	Warning Review of Site Expectations Parent Notification Restorative Conversation	Review of Site Expectations Parent Notification Restorative Conversation Learning Workshop	Review of Site Expectations Parent Notification Restorative Conversation Behavior Contract
	Electronic devices out without permission/Inappropriate tech use	Warning Review of Site Expectations Parent Notification Responsible Use Policy Review	Parent Notification Learning Workshop	Parent Conference Learning Workshop

Ed Code	Disruptive Behavior	1st Occurance Intervention	2nd Occurance Intervention	Additional Occurrences Intervention
	Selling items (concession items, outside fundraisers)	Warning Review of Site Expectations Parent Notification	Parent Notification Learning Workshop	Loss Privileges
	Failure to leave class/location when requested by a staff	Parent Notification Review of Site Expectations Restorative Conversation	Parent Notification Restorative Conversation Counseling Support	Parent Conference
	Refusal to go to learning workshop/reflection	Restorative Conversation Reassign learning workshop/reflection Parent/Guardian Notification	Parent/Guardian with Assistant Principal Conference	Principal Referral/Loss of Privileges
	False Fire Alarm	Learning Workshop Review of Site Expectations Parent Notification	Parent/Guardian with Assistant Principal Conference	Principal Referral/Loss of Privileges
	Dress code violation/not dressing out for PE	Warning Review of Site Expectations Parent Notification by Teacher/Admin Restorative conversation	Parent/Guardian with Assistant Principal Conference	Principal Conference Counseling Referral
	Failure to identify/false identity/ loitering/running away	Warning Review of Site Expectations Parent Notification	Parent/Guardian with Assistant Principal Conference	Counseling Referral Loss of Privileges Principal Conference
	Replicas of dangerous objects	Review of Site Expectations Parent Notification	Parent/Guardian with Assistant Principal Conference	Principal Conference
	Bicycle/skateboard/scooter unsafe riding practices	Warning Review of Site Expectations Train on safe riding practices	Workshop/Reflection Parent/Guardian Notification	Assistant Principal Referral
	Refusal to comply with directives	Warning Review of Site Expectations Parent Notification Restorative Conversation	Behavior Plan / Contract Lunch Reflection Parent Notification/Conference with Assistant Principal	Principal Conference

Middle School Other Means of Correction / Alternatives to Suspension

The following is a list of possible alternatives to suspension that may be utilized. The list is not comprehensive, but provides examples of the other means of correction that can be used as alternatives to suspension.

Tier 1	Tier 2	Tier 3	
Supportive	Supportive	Supportive	
Referral to counselor (non-IEP)	CICO (check-in/check out)	Referral to SST team	
Tobacco prevention (TUPE)	Reflection	Involuntary Class Transfer	
#iCanHelp (anti bully)	Referral to counseling and/or community agencyConferences (student, staff, parents, admin)	Referral to community agency	
Restorative circles	Safe place	IEP	
Take a lap (monitored)	Self-monitoring contract	Develop Behavior Intervention Plan (FBP) (FBA if BIP fails)	
Communication with families (positive)	Tobacco intervention (TUPE) lessons	Behavior contract (Teacher-student)	
Shifting boundaries	Learning Workshops	Parent/Guardian Shadowing	
SEL curriculum	Restorative conversations	Referral to Counseling or necessary specialist	
Advisory Lessons	Small Group	In School / Class Suspension	
Build Relationships (positive ones)	Referral to SST	Community Resources: Safe School Liaisons	
Expectations Assembly	Attendance Contract	Administrator Conference	
Brief Intervention (Tobacco) Informal Check-in/Check out	Behavior Contract	Modify Schedule	
Campus Projects	Brief intervention	Reteach behavior and expectations	
Check-in/Check out	Caregiver/Administrator and/or Teacher conference	Individual Counseling	
Class Meeting/Circles	Changing Schedule	Caregiver shadow	
Teach Conflict Resolution	Escort to and front class	Collaboration with Juvenile Justice System	
SST	Thrive	Refer out to individual anger management classes	
		Brief intervention counseling	

Mindfulness	AVID	TUPE / Stanford Tool Kits
Informal Student Conference	Safe Schools SJPD	
Attendance letters	Behavior Contract	
Teacher/Caregiver Contact	Group de-escalation strategies	
Teach replacement behavior	Refer out to group anger management classes	
Circles	TUPE	
Teacher assigned detention		
Safe Space		
Initial discussions "what happened?" to find root cause		
Reminders/Official Warning		
PBIS		
Confiscation of item		
Safe space (wellness center, student center, classroom calming area)		
Spotlight (PLC discussion about students)		
Restorative	Restorative	Restorative
Campus Projects	Restorative Conversation between individuals	Community Project
Letter of Apology	Community service	Referral to counseling
Research and report on topic	Brief intervention	Formal conferencing
Restorative Circle	Attendance Meetings	
Corrective / Reparative	Corrective	Corrective
Campus Project	Exclusion from extracurricular activities Friday Reflection	SARB Community Project
Detention No contact contract / behavior	Behavior contract Confiscate inappropriate items (i.e. cell phones)	In-school suspension Out of school suspension
Exclusion from extra curricular activities to participate in after school reflection	Class suspension	Out of school suspension

Letter of apology	Friday/lunch time reflection time	Involuntary transfer
Loss of privileges	Caregiver/administrator conference	Administrator conference
No contact contract	Community Service	Restitution
Official Warning from Administrator	Attendance Contract	
Reminder of School Expectations	Parent Phone Call/Conference Learning Workshops	

Glossary of Terms

Terms and definitions as defined in Federal and State Education codes, and used in EESD Administrative Regulations and Board Policies.

Absence (Unexcused) and Truancy: Any absence that has not been both excused by a parent/guardian or legal guardian and approved by the appropriate school official.

Aiding or abetting: Assisting, encouraging, supporting others in the act of inflicting injury to another person.

Arson: Starting or setting a fire on a school campus.

Assault: An unlawful attempt, coupled with present ability, to commit a violent injury to someone.

Battery: A willful and unlawful use of force or violence upon another and where there is a clear victim and clear abuser.

Battery on a Staff Member: Aggressive physical contact with an employee of the school District.

Brandishing: "with reference to a dangerous weapon (including a firearm) means that all or part of the weapon was displayed, or the presence of the weapon was otherwise made known to another person, in order to intimidate that person, regardless of whether the weapon was directly visible to that person. Accordingly, although the dangerous weapon does not have to be directly visible, the weapon must be present."

Bullying, Cyberbullying: Knowing and willful course of conduct directed at a specific person that seriously alarms, annoys, or harasses the person, and involves an imbalance of real or perceived power among those involved. This includes cyberbullying that is the use of information technology (e.g. cell phones, instant messaging, e-mail, social networking sites) to harass, threaten or intimidate someone.

Bus Conduct: Students who ride school buses are expected to adhere to the same rules of conduct and behavior on the school bus as in school. Engages in misconduct, disrupts school bus travel, disrespects the school bus driver or jeopardizes the safety of school bus rides.

Bystander: This is a student who verbally encourages negative behavior to continue. These behaviors may include, but are not limited to: remaining at a fight even when directed to leave, saying things to encourage the fight to continue.

Check in / Check out: Student engagement intervention. Student checks in with adult before and at the end of the school day. Adult gives student behavioral reminders about expected behavior and positive and corrective feedback.

Cheating: Dishonesty on a test or school related assignment.

Closed Campus Without a Pass: Leaving campus without proper authorization.

Controlled Substance: Controlled substances are drugs that are regulated by state and federal laws that aim to control the danger of addiction, abuse, physical and mental harm, the trafficking by illegal means, and the dangers from actions of those who have used the substances. Examples are: methamphetamines, cocaine, crack, heroin, LSD, PCP, or unauthorized prescription drugs.

Dangerous Object: Any object used in a dangerous way or an object that might cause harm to the student or others. Examples include, but are not limited to: safety pins, laser pointers, paper clips that are opened. Consider a knife with a blade smaller than 2.5 inches as a dangerous object.

Defiance of School Personnel's Authority: Refusal to comply with reasonable requests of school personnel.

Destruction or Defacement of Property: Destroying or mutilating property or materials belonging to the school, school personnel or other persons.

Discipline: To instruct, to train in accordance with the rules, an activity or exercise to improve a skill. Equipping students for behavioral and social success is a school-wide responsibility which requires the commitment and efforts of all adults – not just a select few are perceived as "disciplinarians."

Disorderly Conduct, Including Profanity and Obscene Behavior: Conduct and/or behavior that is disruptive to the orderly educational procedure of the school.

Drug/Alcohol: The use, possession or sale of a controlled substance, or otherwise furnished to another person, a controlled substance or alcoholic beverage, or the selling of other substances or materials and representing such substances or material as a controlled substance or alcoholic beverage.

Drug Paraphernalia: any equipment, product, or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance, possession of which is unlawful.

Electronic Devices: Included are cellular phones, 'Blackberry' [smartphone] type devices, PDAs, MP3 players, iPod type devices, and portable computers such as laptops, iPads, desktops, tablets and netbooks, as well as portable storage devices.

Explosives: are chemical compounds or mixtures that undergo rapid burning or decomposition with the generation of large amounts of gas and heat, leading to sudden pressure effects.

Explosive Devices: The use, possession, or sale of explosive devices. Examples are: self or handmade explosive devices, M-80, M-100, M-250, M-1000, Quarter Stick, Silver Salute, etc.

Expulsion: Expulsion means the removal of the student from his/her school for a specified amount of time. When a principal recommends expulsion, the Administrator will forward the request to the Director, Child Welfare and Attendance (CWA) on or before the second day of suspension.

Extortion/Robbery: The solicitation of money, or something of value, from another person, in return for protection, or in connection with a threat to inflict harm.

False Fire Alarm: Deliberately pulling or setting off school fire alarms.

Fighting/Mutual Combat: Engaging in or threatening an act which causes or might cause harm to another person; mutual combat between two people.

Fighting/Assault: Willfully using force or violence upon another except in self-defense.

Firearm: a shotgun or rifle having a barrel of less than eighteen inches in length, or any other weapon, except a pistol or revolver, from which a shot is discharged by an explosive if such weapon is capable of being concealed on the person.

Forgery: Writing and using the signature or initials of another person.

Gambling: Participating in games of chance for the purpose of exchanging money or something of value.

Gang Behavior/Attire: Engaging in behavior (writings, hand signals, intimidation, "stare down", etc.) or wearing attire (caps, shirts, "rags") or symbols (notebooks, tattoos, etc.) that signify gang affiliation or membership.

Harassment, Threats & Intimidation: Intentionally engaged in harassment, threats or intimidation directed against a pupil or group of pupils, that is sufficiently severe or pervasive to have the actual and expected effect of materially disrupting class work, creating substantial disorder and invading the rights of that pupil or group of pupils by creating an intimidating or hostile educational environment.

Hate Crimes/Violence: Actions committed because of the victim's race, color, religion, nationality, country or origin, ancestry, disability, or sexual orientation.

Hazing: Any method of initiation into a student organization or group that causes or may cause physical harm or personal degradation or disgrace resulting in physical or mental harm to a student.

Horseplay: rough, boisterous, or rowdy play, esp. when people push each other as a joke.

Intervention: Behavior interventions are specific actions taken for the purpose of changing the behavior of either an individual or a group of people.

Knife: "Knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding blade that locks into place, or a razor with an unguarded blade (EC 48915(g)).

Obscene Act/Gesture: Any act or gesture that is considered offensive to others. Examples include, but are not limited to: using inappropriate hand gestures, rotating one's hips in a suggestive manner, or other similar behaviors.

Other Means of Correction (OMC): Possible alternatives to suspension that may be utilized by administrators.

Positive Behavior Interventions and Supports (PBIS): A proactive approach to establishing the behavioral supports and social culture needed for all students in a school to achieve social, emotional and academic success. Attention is focused on creating and sustaining primary (school-wide), secondary (classroom), and tertiary (individual) systems of support that improve lifestyle results (personal, health, social, family, work, recreation) for all youth by making targeted misbehavior less effective, efficient, and relevant, and desired behavior more functional.

Profanity: Vulgarity or acts which are considered obscene.

Response to Intervention (RtI): A multi-tier approach to the early identification and support of students with learning and behavior needs. The RTI process begins with high-quality instruction and universal screening of all children in the general education classroom. Struggling learners and students exhibiting behavioral difficulties are provided with interventions at increasing levels of intensity to accelerate their rate of learning. These services may be provided by a variety of personnel, including general education teachers, special educators, and specialists. Progress is closely monitored to assess both the learning rate and level of performance of individual students. Educational and behavioral decisions about the intensity and duration of interventions are based on individual student response to instruction. RtI is designed for use when making decisions in both general education and special education, creating a well-integrated system of instruction and intervention guided by child outcome data.

Restitution: a monetary payment sometimes ordered to be made as part of a judgment in negligence and/or contracts cases to restore a loss.

Retaliation: is the act of seeking revenge upon another.

Restorative Practice: It is more than an intervention to deal with inappropriate behavior and promotes building respectful relationships as a foundation for teaching and learning. It is a way of dealing with the inappropriate behaviors of offenders in a manner that required them to take responsibility for their behavior by acknowledging what had happened and the people who had been affected by their behavior, and focusing on repairing the harm that had been done.

Robbery: Taking property by the use of violence (Penal Code 211).

Roughhouse: Act in a boisterous, violent manner

Self-defense: The right to use reasonable force to protect oneself from bodily harm, or to a lesser extent, one's property, from the attack of an aggressor, if the defender has reason to believe he/she/they is/are in danger. However, a person who acts in self-defense may only use as much force as reasonably necessary under the existing circumstances. If the defender uses excessive force, that person commits a battery as to the excessive force. Words alone, no matter how objectionable or insulting, do not give an offended person a right to use physical force against the person who uttered them.

Selling: to exchange possession and ownership of goods or property for money or something of value.

Serious Bodily Injury: A serious impairment of physical condition including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (Penal Code 243). Medical verification required.

Sexual Assault: Committed or attempted to commit an act of sexual battery, rape, statutory rape, lewd and lascivious conduct, molestation, etc.

Sexual Battery: As defined in Penal Code section 243.4(d)(1): "Any person who touches an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse." Intimate part means the "sexual organ, anus, groin, or buttocks of any person, and the breast of a female."

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature, if this behavior is sufficiently severe or pervasive to have a negative impact on the individual's academic performance, or creates an intimidating, hostile or offensive educational environment.

Suspension: Removal of a pupil from ongoing instruction for adjustment purposes.

Social Emotional Learning (SEL): The process through which children and adults understand and manage emotions, set and achieve goals, feel and show empathy for others, establish and maintain positive relationships, and make responsible decisions.

Student Success Team (SST): A positive school-site team, which identifies effective strategies to meet the needs of individual students.

Tardy: Arriving late to school or class.

Terroristic Threat: is defined by Education Code Section 48900.7 subdivision (b) "as any written or oral statement specifically intended to be taken as a threat even if there is no actual intent of carrying it out. The statement must be threatening death, great bodily injury to another, or property damage over \$1,000. The threat is considered a terrorist threat if, on its face and under the situation in which it is made, it is "so unequivocal, unconditional, immediate and specific as to convey...a gravity of purpose and an immediate prospect of execution of the threat...causes that person reasonably to be in sustained fear for his or her own safety, his or her immediate family's safety, the protection of school district property, the personal property of the person threatened or his or her immediate family."

Theft/Possession of Stolen Property: Taking or attempting to take property that does not belong to you, or knowingly being in possession of stolen property.

Tobacco Use/Possession: The possession or use of tobacco or nicotine products on school property. Prohibited products include, but not limited to cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, betel, electronic cigarettes, electronic hookahs, and vapor-emitting devices.

Weapon: is generally something used to injure, defeat, or destroy and may cover many types of instruments, such as a blackjack, slingshot, billy, metal knuckles, dagger, knife, pistol, revolver, or any other firearm, razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club, among others. Consider a knife with a blade 2.5 to 3.5 inches a "weapon" not a knife.

Weapons/Injurious Objects: The possession, use or sale of any object that might be used to inflict bodily injury to another person.

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SUSPENSION AND EXPULSION: GENERAL PROCEDURES

9.1 GROUNDS FOR SUSPENSION OR EXPULSION (Ed Code 48900)

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined:

(a)

- (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of an alcoholic beverage or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia.
- (k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

Exception: A pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.

- (l) Knowingly received stolen school property or private property.
- (m)Possessed an imitation firearm.
- (n) Committed or attempted to commit a sexual assault or committed a sexual battery.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that

- pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or pre-initiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-sanctioned events.
- (r) Engaged in an act of bullying.

A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur at any time, including, but not limited to, any of the following:

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

A pupil who aids or abets the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline.

For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior.

A pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment. The conduct must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

A pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which

the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of hate violence.

A pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, 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 either school personnel or pupils by creating an intimidating or hostile educational environment.

A pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

9.2 Suspension and Other Means of Correction

Suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed. However, a pupil, including an individual with exceptional needs, may be suspended for any of the reasons enumerated upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

Other means of correction include, but are not limited to, the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
- (4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted.
- (5) Enrollment in a program for teaching pro-social behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the school day on campus.
- (8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- (9) Any of the alternatives: As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on

school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's non-school hours. This section does not apply if a pupil has been suspended, pending expulsion. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

9.3 Total Days of Suspension in a School Year

The total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the pupil may be suspended shall not exceed 30 days in any school year.

A school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

9.4 Suspension by Teacher

A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day, suspension shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

A teacher may also refer a pupil to the principal or the designee of the principal for consideration of a suspension from the school.

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

9.5 Maximum Days of Suspension

The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the acts enumerated in Section 48900 for no more than five consecutive school days.

9.6 Informal Conference

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

A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior. No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools or other person designated by the district superintendent of schools in writing may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, the district

superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension, the purpose of the meeting shall be to decide upon the extension of the suspension order and may be held in conjunction with the initial meeting on the merits of the suspension.

9.7 Supervised Suspension Classroom

A pupil suspended from a school may be assigned by the principal or the principal's designee to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the school site for the period of suspension in a separate classroom, building, or site for pupils under suspension.

Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

9.8 Mandatory Recommendation for Expulsion

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, except in self-defense.
- (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 upon any school employee.

If the principal or the superintendent of schools makes a determination, he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed, the governing board of a school district may order a pupil expelled. A decision to expel a pupil for any of those acts 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 pupil causes a continuing danger to the physical safety of the pupil or others.

9.8 Mandatory Suspension and Recommendation for Expulsion

The principal or superintendent of schools shall immediately suspend 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 otherwise 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 or committing a sexual battery
- (5) Possession of an explosive.

The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed above and shall refer that pupil to a program of study that meets all of the following conditions:

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
- (3) Is not housed at the school site attended by the pupil at the time of suspension.

9.9 Discretionary Expulsions

Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel, the governing board of a school district may order a pupil expelled upon finding that the pupil committed the following acts at school or at a school activity off of school grounds and that other means of correction are not feasible or have repeatedly failed to bring about proper conduct or that due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others:

- (1) Caused or attempted to cause damage to school property or private property.
- (2) Stole or attempted to steal school property or private property.
- (3) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel.
- (4) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (5) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia.

- (6) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- (7) Knowingly received stolen school property or private property.
- (8) Possessed an imitation firearm.
- (9) Committed sexual harassment.
- (10) Caused, attempted to cause, threatened to cause, or participated in an act of hate violence.
- (11) Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, 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 either school personnel or pupils by creating an intimidating or hostile educational environment.

SUSPENSION AND EXPULSION: PLACEMENT IN ALTERNATIVE SETTINGS

9.10 Case-by-Case Determination

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a child with a disability who violates a code of student conduct.

9.11 Removals of Less than 10 days

School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for <u>not</u> more than 10 consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than 10 consecutive school days in that same school year for separate incidents of misconduct (as long as those removals do not constitute a change of placement).

9.12 Manifestation Determination

Within 10 school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the child's IEP Team (as determined by the parent and the LEA) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the parent to determine -

- (i) If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- (ii) If the conduct in question was the direct result of the LEA's failure to implement the IEP.

The conduct must be determined to be a manifestation of the child's disability if the LEA, the parent, and relevant members of the child's IEP Team determine that conduct (1) was caused by, or had a direct and substantial relationship to, the child's disability or (2) was the direct result of the LEA's failure to implement the IEP.

If the LEA, the parent, and relevant members of the child's IEP Team determine the conduct in question was the direct result of the LEA's failure to implement the IEP, the LEA must take immediate steps to remedy those deficiencies.

If the individual with exceptional needs is a foster child and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

If the individual with exceptional needs is a homeless child or youth and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated shall be invited to participate in the individualized education program team meeting that makes a manifestation determination. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

9.12.A Conduct was a Manifestation of the Child's Disability

If the LEA, the parent and relevant members of the IEP Team make the determination that the conduct was a manifestation of the child's disability, the IEP Team must -

- (1) Conduct a functional behavioral assessment, unless the LEA had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or
 - If a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
- (2) Return the child to the placement from which the child was removed, unless the parent and the LEA agree to a change of placement as part of the modification of the behavioral intervention plan.

9.12.B Conduct was Not a Manifestation of the Child's Disability

For disciplinary changes in placement that would exceed 10 consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities.

9.12.C Special Circumstance

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child -

- (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function under the jurisdiction of the LEA;
- (2) Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the; or
- (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the LEA.

9.13 Change of Placement

For purposes of removals of a child with a disability from the child's current educational placement, a change of placement occurs if -

- (1) The removal is for more than 10 consecutive school days; or
- (2) The child has been subjected to a series of removals that constitute a pattern -

- (i) Because the series of removals total more than 10 school days in a school year;
- (ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- (iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

The LEA determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. Change of placement determination is subject to review through due process and judicial proceedings

On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the LEA must notify the parents of that decision, and provide the parents the procedural safeguards notice.

9.14 Services

9.14.A Removal of 10 days or Less

The LEA is only required to provide services during periods of removal to a child with a disability who has been removed from his or her current placement for 10 school days or less in that school year, if it provides services to a child without disabilities who is similarly removed.

9.14.B Subsequent Removals After 10 Days

After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, during any subsequent days of removal, the LEA must provide service.

After a child with a disability has been removed from his or her current placement for 10 school days in the same school year, if the current removal is for not more than 10 consecutive school days and is not a change of placement, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are needed to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP.

9.14.C Change in Placement

A child with a disability who is removed from the child's current placement (more than 10 days and not a manifestation of the child's disability or special circumstance), shall

- (1) continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and
- (2) receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

The services may be provided in an interim alternative educational setting.

The child's IEP Team determines appropriate services.

9.14.D Transportation

If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program

9.15 Appeal

The parent of a child with a disability who disagrees with any decision regarding placement or the manifestation determination, or an LEA that believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint.

9.15.A Hearing Officer

A hearing officer hears and makes a determination regarding an appeal. In making the determination, the hearing officer may -

- (1) Return the child with a disability to the placement from which the child was removed if the hearing officer determines that the removal was a violation or that the child's behavior was a manifestation of the child's disability; or
- (2) Order a change of placement of the child with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the child is substantially likely to result in injury to the child or to others.

These procedures may be repeated if the LEA believes that returning the child to the original placement is substantially likely to result in injury to the child or to others.

9.15.B Expedited Due Process Hearing

Whenever a hearing is requested, the parents or the LEA involved in the dispute must have an opportunity for an impartial due process hearing.

The State or LEA is responsible for arranging the expedited due process hearing, which must occur within 20 school days of the date the complaint requesting the hearing is filed. The hearing officer must make a determination within 10 school days after the hearing.

Unless the parents and LEA agree in writing to waive the resolution meeting or agree to use the mediation process -

- (1) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and
- (2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

The decisions on expedited due process hearings are appealable

9.15.C Placement During Appeal

When an appeal has been made by either the parent or the LEA, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in whichever occurs first, unless the parent and the SEA or LEA agree otherwise.

9.16 Protections for Children Not Yet Eligible for Special Education and Related Services

A child who has not been determined to be eligible for special education and related services under this part and who has engaged in behavior that violated a code of student conduct, may assert any of the protections provided for if the LEA had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred.

9.16.A Basis of Knowledge

A LEA shall be deemed to have knowledge that a child is a child with a disability if, before the behavior precipitated the disciplinary action occurred:

- (1) The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services.
- (2) The parent of the child has requested an evaluation of the child.
- (3) The teacher of the child, or other personnel of the LEA, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education of such agency or to other supervisory personnel of the agency.

Exception:

The LEA shall not have been deemed to have knowledge if –

- (1) The parent of the child has not allowed an evaluation of the child or has refused services, or
- (2) The child has been evaluated and it was determined that the child was not a child with a disability.

9.16.B Conditions that Apply if No Basis of Knowledge

(1) If the LEA does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities, who engage in comparable behaviors.

(2) If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted by the LEA and information provided by the parents, the LEA must provide special education and related services. Until the evaluation is completed, the child remains in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

APPENDIX

APPENDIX A: Special Education Removals for Disciplinary Purposed Flowchart (Fagen, Friedman and Fulfrost)



SPECIAL EDUCATION REMOVALS FOR DISCIPLINARY PURPOSES Category 1 Category 2 Category 3 Category 4 More Than 10 Cumulative Days More Than 10 Cumulative Days Less Than 10 Days More Than 10 Consecutive Days No Change In Placement Change In Placement **Disciplinary Action: Disciplinary Action: Disciplinary Action:** Disabled student may be disci-Disabled student may If the behavior is not a manifestation of the student's disability, the student be disciplined in the may be disciplined as a general education student. plined in the same manner as a nondisabled student. same manner as a non-20 U.S.C. § 1415(k)(1)(C); 34 C.F.R. § 300.530(c) disabled student. If the behavior is a manifestation of the student's disability, the school **Educational Services:** 34 C.F.R. § 300.530(d) district must conduct a functional behavioral assessment and implement On the 11th day of removal, a behavioral intervention plan (provided that the school district had not **Educational Services:** school personnel must consult conducted such assessment prior to the determination before the behavior with at least one of the student's School district need resulted in a change of placement), and return the student to the previous teachers to determine the exonly provide educationplacement unless the school district and parent agree to a change tent to which special education al services to a disabled of placement or the student is placed in an interim alternative educational services must be provided to enstudent if the services setting. If student already has a behavioral intervention plan, the IEP able the student to continue to are offered to nonteam must review and modify it, as necessary, to address the behavior. disabled students. participate in general education 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.530(f) curriculum (although in a differ-34 C.F.R. § 300.530(d) ent setting) and progress toward **Educational Services:** meeting the goals delineated On the 11th day of removal, the IEP team must decide on services to (1) in the student's IEP. enable the student to continue to participate in general education curricu-34 C.F.R. § 300.530(d)(4) lum, (2) progress toward the IEP goals, and (3) receive a functional behavioral assessment, as appropriate, and behavioral intervention services and modifications. 20 U.S.C. § 1415(k)(1)(D); 34 C.F.R. § 300.530(b)(2) **Determine Whether Removal Constitutes Change in Placement:** School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415 (k)(1)(A); 34 C.F.R. §§ 300.530, 300.536 Interim Alternative Educational Setting: School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student: 1. Carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function; 2. Knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or 3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. The IEP team must determine the interim alternative education setting. 20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g) Manifestation Determination: Within 10 days of the decision to change the student's placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was: 1. Caused by, or had a direct and substantial relationship to, the student's disability; or 2. The direct result of the school district's failure to implement the IEP.

20 U.S.C. § 1415(k)(1)(E); 34 C.F.R. § 300.530(e)

The parents and the school district determine who qualifies as "relevant IEP team members." The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided

by the parent.

STUDENT DISCIPLINE

Suspendable and Expellable Offenses

Students may be suspended or recommended for expulsion if the student has committed one of the following offenses:

- Caused, attempted to cause, or threatened to cause physical injury to another person.
- Willfully used force or violence upon the person of another, except in self-defense.
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object.
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance.
- Unlawfully offered, arranged, or negotiated to sell any controlled substance.
- Committed or attempted to commit robbery or extortion.
- Caused or attempted to cause damage to school or private property.
- Stole or attempted to steal school or private property.
- Possessed or used tobacco or any tobacco product.
- Committed an obscene act or habitual profanity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied valid authority.
- Knowingly received stolen school or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or committed sexual battery.
- Harassed, threatened, or intimidated a pupil witness in order to prevent testimony or to retaliate for giving testimony.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in, hazing.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, directed specifically toward a student or school personnel.
- Sexual harassment.
- Hate violence, if the student is in grades 4 through 12.
- Intentionally engaged in harassment, threats, or intimidation that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting, creating substantial disorder, or invading rights.
- Made terrorist threats against school officials or school property.

AUTHORITY: Ed. Code §§ 48900; 48900.2; 48900.3; 48900.4; 48900.7

Mandatory Recommendation for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either on school grounds or at an off-campus school-sponsored event:

- Possessing, selling or furnishing a firearm. Note: This does not apply to "imitation" firearms.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

AUTHORITY: Ed. Code § 48915(c)

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses unless it believes the expulsion is inappropriate due to the particular circumstance, or that an alternative means of correction would address the conduct:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except for the first offense of possession of less than one ounce of marijuana, possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (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.

AUTHORITY: Ed. Code § 48915(a)

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	SPECIAL EDUCATION REMOVALS FOR DISCIPLINARY PURPOSES					
Category 1	Category 2	Category 3	Category 4			
10 Days or Less	More Than 10 Cumulative Days No Change In Placement	More Than 10 Cumulative Days Change In Placement	More Than 10 Consecutive Days			
Disciplinary Action: Disabled student may be disciplined in the same manner as a non-disabled student. 34 C.F.R. § 300.530(b)(1) Educational Services: School district need only provide educational services to a disabled student if the services are offered to non-disabled students. 34 C.F.R. § 300.530(d)(3)	Disciplinary Action: Disabled student may be disciplined in the same manner as a nondisabled student. Educational Services: On the 11th day of removal, school personnel must consult with at least one of the student's teachers to determine the extent to which special education services must be provided to enable the student to continue to participate in general education curriculum (although in a different setting) and progress toward meeting the goals delineated in the student's IEP. 34 C.F.R. § 300.530(b)(1)	agree to a change of placement or the student is placed in an interim alternative educational setting. If student already has a behavioral intervention plan, the IEP team must review and modify it, as necessary, to address the behavior. 20 U.S.C. § 1415(k)(1)(F); 34 C.F.R. § 300.53 Educational Services: On the 11th day of removal, the IEP team must decide on services to (1) enable the student to continue to participate in general education curriculum, (2) progress toward the IEP goals, and (3) receive a functional behavioral assessment, as				
	Determine Whether Removal Constitutes Change in Placement: School district must determine whether a series of removals constitutes a change in placement. Must consider the length of each removal, whether the behavior in each incident is substantially similar, total time removed, and proximity in time of removals. Must be determined on a case-by-case basis. 20 U.S.C. § 1415 (k)(1)(A); 34 C.F.R. §§ 300.530, 300.536					
	Interim Alternative Educational Setting: School officials may remove a student to an interim alternative educational setting for no more than 45 school days regardless of whether the behavior was a manifestation of the student's disability if the student: 1. Carried or possessed a weapon on the way to or at school, on school premises, or to/or at a school function; 2. Knowingly possessed or used illegal drugs, or sold or solicited the sale of a controlled substance, while at school, on school premises or at a school function; or 3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function. The IEP team must determine the interim alternative education setting. 20 U.S.C. §§ 1415(k)(1)(G), 1415(k)(2); 34 C.F.R. § 300.530(g)					
	Manifestation Determination: Within 10 days of the decision to change the student's placement for disciplinary reasons, the school district, parent, and relevant IEP team members must meet to determine whether the student's conduct was: 1. Caused by, or had a direct and substantial relationship to, the student's disability; or 2. The direct result of the school district's failure to implement the IEP. The parents and the school district determine who qualifies as "relevant IEP team members." The team conducting the manifestation determination must review all relevant information in the student's file, including the student's IEP, teacher observations, and any relevant information provided by the parent.					

STUDENT DISCIPLINE

Other Means of Correction Required Prior to Suspension

Suspension shall be imposed only when other means of correction fail to bring about proper conduct. Other means of correction include, but are not limited to, conferences, referrals to staff for counseling, SST or other intervention teams, referrals for assessment, anger management programs, restorative justice, positive behavior supports, after-school programs, and community service. Exceptions: If student violates 48900 (a) through (e) or student's presence causes a danger to persons.

Suspendable and Expellable Offenses

Students may be suspended or recommended for expulsion if student has committed one of the following offenses:

- Caused, attempted to cause, or threatened to cause physical injury to another person.*
- Willfully used force or violence upon the person of another, except in self-defense.*
- Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object.*
- Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance.*
- Unlawfully offered, arranged, or negotiated to sell any controlled substance and sold, or otherwise furnished another substance represented as a controlled substance.*
- Committed or attempted to commit robbery or extortion.*
- Caused or attempted to cause damage to school or private property.
- Stole or attempted to steal school or private property.
- Possessed or used tobacco or any tobacco product.
- Committed an obscene act or habitual profanity.
- Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia.
- Disrupted school activities or otherwise willfully defied valid authority. District may not suspend grades K-8 and may not expel grades K-12 for disruption/defiance.
- Knowingly received stolen school or private property.
- Possessed an imitation firearm.
- Committed or attempted to commit a sexual assault or committed sexual battery.
- Harassed, threatened, or intimidated a pupil witness in order to prevent testimony or to retaliate for giving testimony.
- Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- Engaged in, or attempted to engage in, hazing.
- Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, directed specifically toward a student.
- Sexual harassment, if the student is in grades 4-12.
- Hate violence, if the student is in grades 4-12.
- Intentionally engaged in harassment, threats, or intimidation that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting, creating substantial disorder, or invading rights, if the student is in grades 4-12.
- Made terrorist threats against school officials or school property.
 - *Other means of correction are not required

AUTHORITY: Ed. Code §§ 48900; 48900.2; 48900.3; 48900.4; 48900.7

Mandatory Unless Inappropriate Recommendation for Expulsion

Administration must recommend expulsion of a student who commits one of the following offenses either at school or at a school activity off school grounds, unless it believes the expulsion is inappropriate due to the particular circumstance, or that an alternative means of correction would address the conduct:

- Causing serious physical injury to another person, except in self-defense.
- Possession of a knife or other dangerous object.
- Unlawful possession of any controlled substance (except for the first offense of possession of less than one ounce of marijuana, possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician).
- Robbery or extortion.
- Assault or battery upon a school employee.

The governing board may order a pupil expelled upon finding that the pupil committed one of these acts if it finds that: (1) other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or (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.

AUTHORITY: Ed Code § 48915(a), (b)

Mandatory Recommendations for Expulsion

Administration must immediately suspend and recommend expulsion of a student who commits one of the following offenses, either at school or at a school activity off school grounds:

- Possessing, selling or furnishing a firearm. (Note: This does not apply to "imitation" firearms.)
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance.
- Committing or attempting to commit a sexual assault or committing sexual battery.
- Possessing an explosive.

The governing board shall order a pupil expelled upon finding that the pupil committed one of these acts.

AUTHORITY: Ed Code § 48915(c), (d)

BP 5144.1 - SUSPENSION AND EXPULSION/ DUE PROCESS

<u>Students (/fs/pages/3753#fs-panel-39209)</u> > Board Policy 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.

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
- 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.

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.

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)

 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

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 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, 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

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. 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 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:	Legal	Refe	rence:
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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 <a>http://www.csba.org

California Attorney General's Office: http://www.oag.ca.gov 🗗

California Department of Education: http://www.cde.ca.gov L

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 LT

Adopted: March 21, 2013 Revised: November 13, 2014

Evergreen School District, San Jose, California

Students AR 5144.1(a)

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)

- 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(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))
- 9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

AR 5144.1(c)

- 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))
- 12. Knowingly received stolen school property or private property (Education Code 48900(I))
- 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(g))

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)

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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

- 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)

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)

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)

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.
- 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))

- 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))

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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)

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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 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.

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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))

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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.

- 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.

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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))

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 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 48918(j))

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

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)

Board approved: September 12, 2013, November 13, 2014

Regulation revised: July 1, 2013, October 9, 2014

Regulation EVERGREEN SCHOOL DISTRICT approved: March 21, 2013 San Jose, California

Students AR 5144.2(a)

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:
 - 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.

AR 5144.2(b)

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
- 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)

AR 5144.2(c)

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 CFR 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 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:

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

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.

AR 5144.2(d)

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/quardian.

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 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.

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.

Legal Reference: (see next page)

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 ĆOĎE, 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

Board approved:

Regulation

approved: March 21, 2013

EVERGREEN SCHOOL DISTRICT San Jose, California

Agenda Item Details

Meeting

May 14, 2024 - Board Meeting - 8:00 PM (In-person meeting only)

Category

6. CONSENT ITEMS (Under \$25,000) - Members of the public may address the Board on Consent Items before the Board's consideration of the items. In accordance with Board Bylaws 9323, individual remarks will be limited to three (3) minutes each, unless otherwise stipulated.

Subject

6.12 FMSD 2024-2027 Expulsion Plan

Access

Public

Type

Action (Consent)

Recommended Action

It is recommended that the Board of Education approve the FMSD 2024-2027 Expulsion Plan to ensure that appropriate educational placement options are available for studewnts who ahve

been expelled or are otherwise at-risk/at-promise students.

Public Content

AGENDA ITEM NO. 6.12

SUBMITTED BY: Jennifer Klassen, Director of Early Learning and Student Services

COMMENTS: As required by Education Code 48916.1 and 48926, the district is required to submit a three-year expulsion plan to the County Office of Education to outline prevention and intervention supports as well as due process and placement opportunities for expelled youth.

LCAP PRIORITY AREA:

- PUPIL OUTCOMES
 - Student Achievement
 - Other Student Outcomes
- ENGAGEMENT
 - Student Engagement
 - School Climate

FINANCIAL IMPACT: None





RECOMMENDATION: It is recommended that the Board of Education approved the 2024-2027 Expulsion Plan to ensure that appropriate educational placement options are available for studewnts who ahve been expelled or are otherwise at-risk/at-promise students.

ATTACHMENTS:

FMSD 2024-2027 Expulsion Plan, 7 Pages

FMSD Expulsion Plan 2024-2027.pdf (126 KB)

Administrative Content

Executive Content

"Preparing All Children As Global Learners"



Franklin-McKinley School District

Plan for Expelled Youth



A Joint Plan

BETWEEN



The Franklin-McKinley School District

AND

THE COUNTY OFFICE OF EDUCATION

FOR

THE IMPLEMENTATION OF EDUCATION CODES 48916.1 AND 48926

Developed by

Franklin-McKinley School District

AND

SANTA CLARA COUNTY OFFICE OF EDUCATION

2024-2027



Introduction

The Franklin-McKinley 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 current placement, depending on the circumstances surrounding the plan.

District Overview and Interventions

The Franklin-McKinley School District (FMSD) is representative of diverse demographics that make our State great. We have a commitment to serve all students as well as staff from all backgrounds, driven by our mission "to prepare all children as global learners." The district recognizes that when educational organizations are committed to enhancing diversity, equity and inclusion, student learning and outcomes improve. Students benefit from seeing themselves mirrored in the front of the classroom, in administration, in curriculum, in community events, and holiday celebrations: it is about making our students, as well as our staff, visible and embraced within our district. Not only does increasing equity give our students more opportunities to visualize a successful future, it also exposes them to more ideas, information, and cultures, all of which are necessary to thrive in a diversifying global economy. Franklin-McKinley recognizes the need and importance for culturally relevant training and on-going professional development of educators, administrators, and staff in regards to diversity, equity, inclusion and belonging as well as race, ethnicity, class, privilege, implicit bias and systems of oppression.

FMSD believes that in order to eradicate institutional bias of any kind, including implicit or unintentional biases and prejudices that affect student achievement, and to eliminate disparities in educational outcomes for students from historically underserved and underrepresented populations, the district shall proactively identify class and cultural biases as well as practices, policies, and institutional barriers that negatively influence student learning, perpetuate achievement gaps, and impede equal access to opportunities for all students. In 2020, the district adopted a Diversity, Equity, Inclusion, and Belonging (DEIB) resolution bringing light and direction to increasing equitable outcomes for each student.

Community Schools

FMSD is launching the Community School's framework continuing to build student centered learning environments. A Community School takes a "whole-child" approach, with an integrated focus on academics, health and social services, youth and community development, and community engagement. It is an equity-driven and assets-building school transformation program. Community schools are intentionally situated in a suite of



CA initiatives (e.g., Multi-tiered Systems of Support, mental health services, expanded learning time, universal TK, etc.) that stand to transform public education throughout the State. Practices also align, integrate and cross stitch with other education justice and equity initiatives at the district and school site level.

FMSD has the following tiered services available for all students in the district:

Title of Program/Activity	Activity	Grade Level
Multi-Tiered System of Supports	Franklin-McKinley School District believes in building equitable and inclusive school communities through an MTSS framework.	PK-8
	Services are delivered through a tired system: Tier 1, Universal; Tier 2, Targeted; Tier 3 Intensive	
	FMSD is providing ongoing training and capacity building for the implementation of MTSS across all school sites and district office.	
Social & Emotional Learning	FMSD adopted Second Step as our universal SEL curriculum. Second Step builds a foundation for a positive, inclusive culture through developing social-emotional competencies, which include perspective-taking, empathy, processing emotions, understanding and resolving conflicts, and building positive relationships.	PK-8
Student Attendance Review Team	All stakeholders are committed to improving attendance. Attendance teams meet weekly/bi-weekly to analyze schoolwide data, develop plans to address concerns and allocate responsibilities for creating needed tools or resources. Attendance teams include Principal, School Social Worker, School Linked Services Specialists,	PK-8
District Collaboration Team	Coordinates supports and interventions for high priority students using an asset-strength based approach; Develops a common understanding of intervention systems to ensure consistent and equitable practices exist across the district aligned to the district's multi-tiered strategies	PK-8



Restorative Practices	Restorative Practices proactively build healthy relationships and a sense of community to prevent and address conflict and wrongdoing Improve school climate and culture by addressing youth behavior and improving relationships between students, teachers, and staff. FMSD continues to offer training and capacity building in all schools with Restorative Practices.	PK-8
Student Wellness & Support Services	A continuum of integrated mental health & wellness related services and supports which are coordinated through School Social Workers, School Linked Services Coordinators and community educational partners. FMSD has implemented Wellness Centers in all schools. Wellness center efforts are aligned to and in collaboration with school and community behavioral health services and offer an integrated prevention and early intervention approach recognizing and responding appropriately to the whole child	PK-8
Foster Youth & McKinney-Vento Services and Supports	Franklin-McKinley School District's foster and McKinney-Vento Liaison is responsible for the provision of services and supports for children and youth in foster care and homeless situations working within the guidance of Assembly Bill 490 (AB 490) and in collaboration with the Santa Clara County Office of Education.	PK-8

Specialized and Alternative District Offered Placements

Franklin-McKinley School District continues to offer an Independent Study Program (ISP) ISP is available to all students in the district and is a voluntary placement. Students meet with a certificated teacher 60-90 minutes a week and receive core and enrichment academic and socio-emotional learning and support. Students are offered the opportunity to participate in relevant school activities as appropriate.

Considerations and Gaps

As an elementary school district, we continue to explore the addition of alternative learning models to meet the needs of students who are needing a different type of environment.



Expulsion

Franklin-McKinley School District, located within Santa Clara County, offers the following options for expelled youth, depending on the specific offense, Education Code, and Board Policy 5131:

- Suspended expulsion with placement on a different campus within the District.
- Expulsion with referral and release to the Santa Clara County Office of Education Court and Community School/Day Center Program.
- Placement in another public school or charter school, with consent from all parties
- Stipulated Agreements -In Lieu of Expulsion Hearing and Full Expulsion

Actual referral to such a placement is made by Franklin-McKinley'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
- Review of incidents to see if they fall under the Mandatory Expulsion category

District Gaps and Strategies

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. This is 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.

District Strategy for Addressing This Gap

Expelled students in grades one through six will be transferred to another district elementary school with a rehabilitation plan.

Continuous Training

Although our overall suspension and expulsion rate has declined year over year, FMSD continues to educate its administrators about the proper use of discipline including expulsion and continues to train around using all interventions (other means of correction) possible before considering expulsion whenever practicable. This has led to fewer recommendations for expulsion but continues to be a necessary training.

Los Altos School District

Plan for Expelled Youth 2024-2027

Joint Plan between LASD & SCCOE

INTRODUCTION PAGE

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. 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/LOS ALTOS SCHOOL DISTRICT PLAN FOR EXPELLED YOUTH

(Education Code)

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 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, but only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

LOS ALTOS SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED YOUTH

Los Altos School District, located within Santa Clara County, has the following intervention programs in place:

Title of Program/Activity	Activity	Grade Level
Positive Behavior Intervention and Support	Each school site has their own expectations and reinforcement system. School-wide assemblies, lessons for each area on campus, positive reinforcements provided to students who are showing expected behaviors, and tiered interventions for those students who need extra support.	TK-8
Multi-Tiered System of Support	Multi-Tiered System of Supports: Clearly defined Tier 1 supports for all students, and Tier 2 and 3 supports for students that may need support.	TK-8
Student Attendance Review Team/Student Success Team	For the 24-25 School Year, plans are being made for Student Attendance Review Teams to track attendance. Student Study Teams review academic, behavioral and social interventions to support individual students.	TK-8
Los Altos Mental Health Wellness	Tiered levels of mental health support depending on need. General education counseling and or mental health support for students in need of mental health support. Referred through the SST process, parent request or student request. One junior high school has a wellness center and the other has a counseling corner that are available to all students.	TK-8
Social Emotional Learning Curriculum	Kimochis (TK) and Character Strong in K-8.	TK-8

BEST PRACTICES THAT ADDRESS DISPROPORTIANOTE REPRESENTATION OF MINORTY STUDENTS

The list of above activities are all evidence based practices that decrease the disproportionate representation of minority students. Five guiding principles outlined by the U.S. Department of Education (March 2023) are:

- 1. Foster a sense of belonging through positive, safe, welcoming, and inclusive school environment
- 2. Support the social, emotional, physical, and mental health needs of all students through evidence-based strategies
- 3. Adequately support high-quality teaching and learning by increasing educator capacity

- 4. Recruit and retain a diverse educator workforce
- 5. Ensure the fair administration of student discipline policies in ways that treat students with dignity and respect (including through systemwide policy and staff development and monitoring strategies)

Guiding Principal	LASD's Activity
Foster a sense of belonging through a positive, safe, welcoming, and inclusive school environment	Teachers use Tier 1 practices in the classroom to establish, maintain, and restore positive developmental relationships with their children. Professional development training and ongoing support is offered to teachers and staff on best practices of how to do this in their classrooms and in the school at large.
2. Support the social, emotional physical, and mental health needs of all students through evidence-based strategies	trained on and responsible for implementing class wide social emotional
3. Adequately support high-quality teaching and learning by increasing educator capacity	Professional development is offered through the district. LASD uses Design Principals for Schools, The Science of Teaching and Learning, and The Learning Policy Institute to guide professional development, teaching, and learning for educators in the district. The district offers instructional support coaches to ensure high quality of instruction is happening in the classrooms. In addition, LASD employees have access to an employee assistance program that provides mental health, legal, financial, and family support among other things.
Recruit and retain a diverse educator workforce	LASD has an in-district induction program where teachers learn about and are coached around culturally responsive teaching. The district's Human Resources Departments reach out to colleges in areas of the state with diverse populations. Our districts also encourage and incentivize our skilled paraprofessionals, who represent and reflect our diverse populations and have experience in working with special populations, to obtain their teaching credentials for hard to fill positions. LASD implements the following strategies to recruit and retain faculty who represent and support diversity and excellence. • HR representatives actively seek to recruit teacher candidates who represent and reflect the diverse population in our district • Participate in annual SCCOE recruitment job fairs • District advertises to parent community via social media platforms • HR representatives attend recruitment fairs at universities with teacher preparation programs that match district's staffing needs when offered

	 Cultural Proficiency is ascertained via the candidate's employment application and interview School site administrators, Teacher Induction Program Coordinators, Mentors and other stakeholders encourage classified employees who represent and reflect our diverse student population, to consider a career teaching in our school district
5. Ensure the fair administration of student discipline policies in ways that treat students with dignity and respect (including through systemwide policy and staff development and monitoring strategies)	Principals and administrators are trained on evidence-based and latest discipline practices that promote restorative justice as opposed to punitive practices. The majority of staff members are trained in crisis management training that provides skills and competencies necessary to effectively prevent, minimize, and manage behavioral challenges with dignity and safety.

In addition, LASD has moved away from school practices, such as suspension and expulsions, to more preventative and restorative practices, such as:

- Eliminating unnecessary removals
- Using trauma informed practices and restorative justice responses to get at root cause
- Approach all discipline with equitable and consistent perspective and improve multicultural responsiveness

Los Altos School District has accomplished this by training principals and district administrators on best practices, as well as utilizing the Student and Staff Services department at the district office for consultation around disciplinary actions.

DISTRICT EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED YOUTH

Los Altos School District will offer 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) expulsion with referral to the North County Community Day School program or other Community Day School program operated by a district in Santa Clara County;
- 4) expulsion with referral to the Santa Clara County Office of Education Court and Community School/Day Center Program.

Recommendations for expelled students and placement consider the following information:

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

• Review of incidents to see if they fall under the Mandatory Expulsion category.

Actual referral to such a placement is made by the District Governing Board, with recommendations from the District Discipline Review Board, SARB, or a similar District referral process.

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 educational care as outlined. The philosophy of each individual school district affects how the Santa Clara County Office of Education Community School program will meet the needs of that particular school district. Some school districts use the Santa Clara County office of Education program as an educational option for those students expelled under a district "zero-tolerance" policy, while others use this program as a student assistance or placement alternative. The Community School is a permissive educational program that provides the local school districts with another educational option for their expelled youth.

LOS ALTOS SCHOOL DISTRICT OVERIEW

County Existing Educational Alternatives Available to 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 to 360 minutes per day in community school classrooms;
- 2) An Independent Study Program (IS) that requires students to complete a minimum of 20 hours of educational product.

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

Community Schools

Sunol Community School in San Jose South County Community School in Gilroy

COUNTY AND DISTRICT GAPS AND STRATEGIES IN EDUCATIONAL SERVICES

There are seven 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. 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 the 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 original District.

County/District strategy for addressing this gap:

- Districts who have developed a district Community Day School will have the option to refer appropriate students to this program (if funded).
- 2. Students who have failed their placement in district Community Day Schools may be referred to other district programs or to a county operated Community School. If the student fails the program or commits another expulsion type offense, there may not be any viable alternatives remaining.

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. Small school districts within Santa Clara County generally expel very few students during the course of a school year; so few students are expelled that having a special class or program for such students, located in each district, is not financially or geographically possible.

County/District strategy for addressing this gap:

- Regional program may be developed to reflect geographical or limited numbers.
- 4. Students, who are expelled by individual small school districts, and by the combined small school districts within Santa Clara County, vary as to age, grade level, and expulsion offenses. The wide range of age, grade level, and seriousness of offense make it difficult to provide appropriate programs for these/this district(s).

County/District strategy for addressing this gap:

- Regional program may be developed to reflect geographical or limited
- Los Altos School District has joined the North County Community School

partnership and contributes funds to guarantee space for them.

5. There are significant geographical distances between local small districts, thus district or county operated classroom sites/programs for small school districts would require either extensive busing, which is not financially feasible for the county, or parent provided transportation, which is often impossible for the parents.

County/District strategy for addressing this gap:

- Regional program may be developed to reflect geographical or limited numbers.
- 6. 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 expelled in these lower grades. These younger students cannot attend the programs designed for middle and high school students. The numbers are growing, but generally are not enough to develop an elementary school classroom or program.

County/District strategy for addressing this gap:

- Regional program may be developed to reflect geographical or limited numbers.
- 7. The district Community Day School option for expelled students, as described in current California Education Code, is difficult for the local districts to develop due to the following reasons:
 - a) the six (6) hour, or 360 minute day exceeds the required hours for a minimum school day (240 minutes), the required hours for a continuation school day (15 hours per week), and the required hours for students enrolled in the various elementary school programs, and the current 300 minutes used by the Santa Clara County operated Community School program;
 - b) access to the additional funding is restricted by having the student complete six hours of hour-by-hour attendance accounting in order for the district to receive the additional funding, and requiring additional attendance bookkeeping and record keeping;
 - c) the Community Day School program limits the available instructional strategies which can be used, such as contracted study, which limits the program flexibility required for success;
 - d) the separation of students in grades K-6 from students in grades 7-8 also creates boundaries that will be financially and/or geographically difficult;
 - e) inability to locate on a comprehensive site is a further complication.

County/District strategy for addressing this gap:

• Develop a Student Study Team to analyze student needs and suggest alternatives; i.e., County operated Community Schools.

SUCCESS OF STRATEGIES

Los Altos School District has not had an expulsion in the past 9 years; therefore, we haven't had to utilize these strategies. Should the need arise in the future, we will reflect on our practices.

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 1

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, or the Santa Clara County Office of Education Community School.

Expelled students are referred to a Santa Clara County Office of Education Community School, which is a permissive program. 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 students fail the County-operated program, they are referred back to the district for possible review and re-placement.

Los Altos School District Board Policies on Expulsion

Policy 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 07/22/2002 | Last Revised Date: 11/15/2021 | Last Reviewed Date: 11/15/2021

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 wellbeing, 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)

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.

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 under "Grounds for Suspension and Expulsion: Grades K-8" and "Additional Grounds for Suspension and Expulsion: Grades 4-8," 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, 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 20USC 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.

Policy 5144: Discipline

Original Adopted Date: 07/22/2002 | Last Revised Date: 06/05/2023 | Last Reviewed Date: 06/05/2023

The Board of Trustees is committed to providing a safe, supportive, and positive school environment which is conducive to student learning and achievement and desires to prepare students for responsible citizenship by fostering self-discipline and personal responsibility. The Board believes that high expectations for student behavior, use of effective school and classroom management strategies, provision of appropriate intervention and support, and parent/guardian involvement can minimize the need for disciplinary measures that exclude students from instruction as a means for correcting student misbehavior.

The Superintendent or designee shall develop effective, age-appropriate strategies for maintaining a positive school climate and correcting student misbehavior at district schools. The strategies shall focus on providing students with needed supports; communicating clear, appropriate, and consistent expectations and consequences for student conduct; and ensuring equity and continuous improvement in the implementation of district discipline policies and

practices.

In addition, the Superintendent or designee's strategies for correcting student misconduct shall reflect the Board's preference for the use of positive interventions and alternative disciplinary measures over exclusionary discipline measures.

Disciplinary measures that may result in loss of instructional time or cause students to be disengaged from school, such as detention, suspension, and expulsion, shall be imposed only when required or permitted by law or when other means of correction have been documented to have failed. (Education Code 48900.5)

School personnel and volunteers shall not allow any disciplinary action taken against a student to result in the denial or delay of a school meal. (Education Code 49557.5)

Seclusion and behavioral restraint are prohibited as a means of discipline and shall not be used to correct student behavior except as permitted pursuant to Education Code 49005.4 and in accordance with district regulations. (Education Code 49005.2)

The Superintendent or designee shall create a model discipline matrix that lists violations and the consequences for each as allowed by law.

At all times, the safety of students and staff and the maintenance of an orderly school environment shall be priorities in determining appropriate discipline. When misconduct occurs, staff shall attempt to identify the causes of the student's behavior and implement appropriate discipline. When choosing between different disciplinary strategies, staff shall consider the effect of each option on the student's health, well-being, and opportunity to learn.

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

The Superintendent or designee shall provide professional development as necessary to assist staff in developing the skills needed to effectively and equitably implement the disciplinary strategies adopted for district schools, including, but not limited to, consistent application, effective accountability and positive intervention techniques, and the tools to form strong, cooperative relationships with parents/guardians.

District goals for improving school climate, based on suspension and expulsion rates, surveys of students, staff, and parents/guardians regarding their sense of school safety and connectedness to the school community, and other local measures, shall be included in the district's local control and accountability plan, as required by law.

At the beginning of each school year, the Superintendent or designee shall report to the Board regarding disciplinary strategies used in district schools in the immediately preceding school year and their effect on student learning.

Original Adopted Date: 07/22/2002 | Last Revised Date: 06/05/2023 | Last Reviewed Date: 06/05/2023

Disciplinary Strategies

To the extent possible, staff shall use disciplinary strategies that keep students in school and participating in the instructional program. Except when students' presence causes a danger to themselves or others or they commit a single act of a grave nature or an offense for which suspension or expulsion is required by law, suspension or expulsion shall be used only when other means of correction have failed to bring about proper conduct. Disciplinary strategies may include, but are not limited to:

- 1. Discussion or conference between school staff, the student, and the student's parents/guardians
- 2. Referral of the student to the school counselor or other school support service personnel for case management and counseling
- 3. Convening of a study team, guidance team, resource panel, or other intervention-related team to assess the behavior and develop and implement an individual plan to address the behavior in partnership with the student and the student's parents/guardians
- 4. When applicable, referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program or a Section 504 plan
- 5. Enrollment in a program for teaching prosocial behavior or anger management
- 6. Participation in a restorative justice program
- 7. A positive behavior support approach with tiered interventions that occur during the school day on campus
- 8. Participation in a social and emotional learning program that teaches students the ability to understand and manage emotions, develop caring and concern for others, make responsible decisions, establish positive relationships, and handle challenging situations capably
- 9. Participation in a program that is sensitive to the traumas experienced by students, focuses on students' behavioral health needs, and addresses those needs in a proactive manner
- 10. After-school programs that address specific behavioral issues or expose students to positive activities and behaviors, including, but not limited to, those operated in

collaboration with local parent and community groups

- 11. Recess restriction as provided in the section below entitled "Recess Restriction"
- 12. Detention after school hours as provided in the section below entitled "Detention After School"
- 13. Community service as provided in the section below entitled "Community Service"
- 14. In accordance with Board policy and administrative regulation, restriction or disqualification from participation in extracurricular activities
- 15. Reassignment to an alternative educational environment
- 16. Suspension and expulsion in accordance with law, Board policy, and administrative regulation

When, by law or district policy, other means of correction are required to be implemented before a student could be suspended or expelled, any other means of correction implemented shall be documented and retained in the student's records. (Education Code 48900.5)

Staff shall enforce disciplinary rules fairly, consistently, and in accordance with the district's nondiscrimination policies.

When disciplining a student who has been identified for special education and related services, the procedures specified in Administrative Regulation 5144.2 - Suspension And Expulsion/Due Process (Students With Disabilities) shall be applied. If a student has not been identified as a student with a disability and the district suspects the behavior that resulted in discipline may be based in an unidentified disability, the district shall conduct an evaluation to determine if the student has a disability which requires an IEP or 504 plan. (U.S.C. 1412(a)(3))

Recess Restriction

Teachers may restrict a student's recess time only when they believe that this action is the most effective way to bring about improved behavior. When recess restriction involves the withholding of physical activity from a student, teachers shall try other disciplinary measures before imposing the restriction. Recess restriction shall be subject to the following conditions:

- 1. The student shall be given adequate time to use the restroom and get a drink or eat lunch, as appropriate.
- 2. The student shall remain under a certificated employee's supervision during the period of restriction.

3. The student's teacher shall inform the principal of any recess restrictions imposed.

Detention After School

Students may be detained for disciplinary reasons for up to one hour after the close of the maximum school day. (5 CCR 307, 353)

The student shall not be detained unless the principal or designee notifies the parent/guardian.

Students shall remain under the supervision of a certificated employee during the period of detention.

Community Service

As part of or instead of disciplinary action, the Board, Superintendent, principal, or principal's designee may require a student to perform community service during nonschool hours on school grounds or, with written permission of the student's parent/guardian, off school grounds. Such service may include, but is not limited to, community or school outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. (Education Code 48900.6)

This community service option is not available for a student who has been suspended, pending expulsion, pursuant to Education Code 48915. However, if the recommended expulsion is not implemented or the expulsion itself is suspended, then the student may be required to perform community service for the resulting suspension. (Education Code 48900.6)

Notice to Parents/Guardians and Students

At the beginning of the school year, the Superintendent or designee shall notify parents/guardians, in writing, about the availability of district rules related to discipline. (Education Code 35291, 48980)

The Superintendent or designee shall also provide written notice of disciplinary rules to transfer students at the time of their enrollment in the district.

Plan will be adopted on May 20, 2024 at the LASD Board Meeting. Minutes will be attached.



Three Year Expulsion Plan Between the Luther Burbank School District

And

The Santa Clara County Office of Education

For the implementation code of Education Code 48916.1

Board approved April 23, 2024

Luther Burbank School District – Educational Alternatives for Expelled Students

The Luther Burbank School District provides early intervention strategies at the Luther Burbank School campus. The district provides interventions which include, but are not limited to:

Guidance:

After-school activities

One-on-one counseling

Faculty/Staff Mentor Support

Student Success Team (SST)

Parent/guardian support

Meetings

Special Education services

Discipline

In-School Suspension

Off Campus Suspension

Modified Day Schedule

Student Contracts

Furthermore, the Luther Burbank School District utilizes the following measures to ensure a safe school environment. The intended purposes for these measures is meant to serve as a means of correction and to assist students in successfully developing pro-social skills. aid for Among these include, but are not limited to:

Multi-Tiered Systems of Support (MTSS): Luther Burbank School District utilizes Tier I, Tier II, and Tier III academic and behavioral interventions to support student learning. As part of implementing School-Wide Positive Intervention Support (SWPBIS), the Luther Burbank School District, continues to work with the Santa Clara County Office of Education to implement MTSS and SWPBIS.

Included in the multi-tiered systems of support are school wide structures for student behavior, attendance, and wellness. All of which contribute to a student's overall growth.

District Existing Educational Alternatives for Expelled Youth:

School Districts located within Santa Clara County offer 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 District Contracted Study (Independent Study), if the parent/guardian agrees;
- 4. Expulsion with referral to a District community Day School program; or
- 5. Expulsion with referral to the Santa Clara County Office of Education Court and Community School/Day Center Program.

Actual referral to such a placement is made by the District governing board with recommendations from the District Discipline Review Board, SARB, or similar district referral process.

Identified Gaps in Educational Services to Expelled Youth:

There are seven major gaps that exist in respect to providing education services to expelled pupils. Following each gap is the County/District strategy for addressing these gaps.

- 1. 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 Education 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 original District.
- 2. Students who have failed their placement in district Community Day Schools may be referred to other district programs or to a county operated Community School. If the student fails the program or commits another expulsion type offense, there may not be any viable alternatives remaining.
- 3. Small school districts within Santa Clara County generally expel very few students during the course of a school year; because so few students are expelled, having a special class or program from such students, located in each district, is not financially or geographically possible.
- 4. Students who are expelled by individual small school districts, and by the combined small school districts within Santa Clara County vary as to age, grade level and expulsion offenses. The wide range of age, grade level, and seriousness of offense make it difficult to provide appropriate programs for these districts.
- 5. There are significant geographical distances between local small districts, thus district or county operated classroom sites and programs for small school districts would require either extensive busing, which is not financially feasible for the county, or parent provided transportation, which is often impossible for the parents.

- 6. 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 numbers are growing, but generally are not enough.
- 7. The district Community Day School option for expelled students, as described in current California Education Code, is difficult for the local districts to develop due to the following reasons:
- a) the six (6) hour, or 360 minute, day exceeds the required hours for a minimum school day (240 minutes), the required hours for a continuation school day (15 hours per week), and the required hours for students enrolled in the various elementary school programs, and the current 300 minutes used by the Santa Clara County operated Community School program;
- b) access to the additional funding is restricted by having the student complete six hours of hour-by-hour attendance accounting in order for the district to receive the additional funding, and requiring additional attendance bookkeeping and record keeping;
- c) the Community Day School program limits the available instructional strategies which can be used, such as contracted study, thus limiting the program flexibility required for success;
- d) the separation of students in grades K-6 from students in grades 7-8 also creates boundaries that will be financially and/or geographically difficult.;
- e) inability to locate on a comprehensive site is a further complication.

Step 1

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 2

Expelled students who fail to meet the terms and conditions of the district rehabilitation plan may be referred to another district's school, another district program, a district Community Day School Program (if funded), or the Santa Clara County Office of Education Community School.

Expelled students referred to a Santa Clara County Office of Education Community School enter a permissive program. An Individual Learning Plan will be developed with the students' parents/guardians 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 the County-operated program, they are referred back to the district for possible review and another placement.

A review of the Luther Burbank School District Expulsion Plan indicates that due to its small school status, Luther Burbank does indeed have limited options for expelled youth. For example, to suspend expulsion with placement on the same school campus or different school campus within the district are not viable options at the Luther Burbank School District. Furthermore, the district does not have a community day school program as it is not financially possible.

Luther Burbank School District is creating a Memorandum of Understanding (MOU) with another small school district to place an expelled student on another campus within another district. Due to the varied geography between small districts, the parent/guardian would be responsible for providing transportation.

In the event of an expelled student who commits subsequent violations, the student would be referred back to the Luther Burbank School District. In turn, the Luther Burbank School District would pursue other options as listed below.

Other options that do remain in place for Luther Burbank School District include placement of an expelled student on a District Contracted Study if the parent/guardian agrees, expulsion with referral to the Santa Clara County Office of Education Court and Community School/Day Center Program.

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 2024 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 EDUCTIONAL 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 2024 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 underfunding 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.

Board Policy – Suspension and Expulsion/Due Process BP 5144.1 Students

Status: ADOPTED

Policy 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 02/21/2012 | Last Revised Date: 06/09/2015 | Last Reviewed Date: 06/09/2015

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 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
- 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 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)

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.

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-8" and "Additional Grounds for Suspension and Expulsion: Grades 4-8," 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 a public session.

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 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.

Regulation 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 02/21/2012 | Last Reviewed Date: 02/21/2012

Status: ADOPTED

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 Board of Trustees for students of the same grade level
- 2. Referral to a certificated employee designated by the Superintendent 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 Superintendent 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 school is in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Superintendent'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 Superintendent, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the Superintendent'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 Superintendent'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 Superintendent shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension, and expulsion. (Education Code 35291, 48900.1, 48980)

Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

- 1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon another person, except in self-defense. (Education Code 48900(a))
 - A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(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 Superintendent or designee's concurrence. (Education Code 48900(b))
- 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. (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 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 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. (Education Code 48900(h))
- 9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
- 10. Unlawfully possessed or unlawfully 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))
- 12. Knowingly received stolen school property or private property. (Education Code 48900(I))
- 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 preinitiation 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. 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:

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

Sexual harassment means that conduct, 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)

20. 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 another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. (Education Code 233; Penal Code 422.55)

- 21. 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)
- 22. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel. (Education Code 48900(r))

Bullying means one or more acts by a student or group of students that constitute sexual harassment pursuant to Education Code 48900.2, as defined in item #19 above; hate violence pursuant to Education Code 48900.3, as defined in item #20 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #21 above. (Education Code 32261)

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. (Education Code 32261)

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 school under the jurisdiction of the Superintendent or within any other school district, including, but not limited to, the following circumstances: (Education Code 48900)

- 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

The Superintendent may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(v))

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

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

A teacher also may refer a student to the Superintendent or designee for consideration of suspension from school. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the Superintendent or designee and send the student to the Superintendent or designee for appropriate action. The student shall be

appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher 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 Superintendent. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. 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 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 provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the Superintendent shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

This notice shall also:

- 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. Ask the parent/guardian to meet with the Superintendent after the visit and before leaving school, as required by Education Code 48900.1

Suspension by Superintendent or Designee

The Superintendent may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Superintendent shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

- 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 Superintendent 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 item #14 under "Grounds for Suspension and Expulsion" above
- 5. Possession of an explosive as defined in 18 USC 921

Explosive means a destructive device and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device. A destructive device includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Secretary of Army as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

Suspension also may be imposed upon a first offense if the Superintendent determines that the student violated items #1-5 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, the 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. (Education Code 48903, 48911, 48912)

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)

Suspensions shall be initiated according to the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the Superintendent. 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 or designee 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 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 case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. 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.

3. 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 matter. (Education Code 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 a conference. The student may not be denied readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

4. Extension of Suspension: If the Board is considering the expulsion of a suspended student 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)

Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent 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 in "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 closed sessions 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

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom or building 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. Each 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 Superintendent 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. 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)

The Board also may order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the Superintendent, hearing officer, or administrative panel, based on either or both of the following finding(s): (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

Mandatory Recommendation for Expulsion

Unless the Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, 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), explosive, 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 the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
- 4. Robbery or extortion

5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

Mandatory Recommendation and Mandatory Expulsion

The Superintendent 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 Superintendent 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 item #14 under "Grounds for Suspension and Expulsion" above
- 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

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

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 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 the 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. While 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 hearings involve 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.
 - 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 he/she 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 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 Within 10 School Days: The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))
- 7. Decision Within 40 School 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 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. (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." (Education Code 48918(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))

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 for a period of one year. (Education Code 48917, 48918)

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. (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, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

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 the

school. 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. 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 the 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 in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (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 of Education (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, 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 the 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 the 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 also 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 time 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. (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 action 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 Superintendent 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 Superintendent 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 or nonstudents regarding the possession, sale, or furnishment 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 Superintendent 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 the school, unless the program is offered at a community day school established at the 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 #19-21 under "Grounds for Suspension and Expulsion" above may be instead 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)

Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 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)

Outcome Data

The Superintendent or designee shall maintain the following data: (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



Three Year Expulsion Plan

Between the

Loma Prieta Joint Union School District

And

the Santa Clara County Office of Education

for the Implementation of Education Code 48916.1



23800 Summit Road, Los Gatos California 95033 Phone: (408) 353-1101 www.loma.k12.ca.us Dr. Kevin Grier, Superintendent Amy Ramsay, Principal

To Whom It May Concern:

At a meeting held on May 29, 2024, the Loma Prieta Joint Union School Board of Education approved a 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,

Randy Cohen
Director of Student Services and Special Education

Loma Prieta Joint Union School District Plan

EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTS

Educational programs and services within Santa Clara County provide opportunities for all students who are in need of a traditional or an alternative education. 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 Loma Prieta Joint Union School District. This plan may involve one or more of the options outlined. A student who is in need of an educational alternative may also access these programs through the Loma Prieta Joint Union School District and/or county referral process.

Loma Prieta Joint Union School District, located within Santa Clara County and Santa Cruz counties, offers the following intervention programs:

- 1. A strength of our small school size is that staff know students and their families well. Loma Prieta Elementary school uses a school-wide Zones of Regulation approach to instill in all students strategies to de-escalate conflicts and emotional challenges. C.T. English Middle School identifies students who are struggling and matches them with a teacher to serve as a mentor. Every effort is made to connect the student with a teacher with whom they have an established strong, positive connection.
- 2. When a student continues to show signs of struggle, the next step is to have the student referred to the formal Coordination of Services Team. Having a COST maximizes and expands available resources, increasing our school's capacity to respond quickly and appropriately to a wide range of student needs. With this enhanced support, more students are able to stay engaged in school and ultimately graduate healthy and successful.
- 3. When a student's challenges fail to respond to early intervention, a formal Student Study Team meeting is called. This general education format includes site-based teachers in addition to the child's primary or homeroom teacher, the student's parents, the student, administrators, and counselors or other key allies. A student's strengths and challenges, along with parental concerns, are outlined and intervention strategies are aligned. This process includes regular follow-up as well.
- 4. Students who need continuing support can sometimes be referred to outside counseling, offered additional support through Saturday school, can be offered partial day class schedules which are designed to support core academics and reduce stress. An open and continuous line of communication with parents and other caregivers is maintained.
- 5. For students whose challenges include attendance issues, a student may be offered home-hospital if there are medical considerations, a family may also be referred to the Student Attendance Review Board (SARB).

Loma Prieta Joint Union School District offers the following options for expelled youth depending on the specific offense and Education Code violation:

- 1. Suspended expulsion with placement in a different classroom or with a different teacher.
- 2. Suspended expulsion with placement in a reduced day program.
- 3. Suspended expulsion with placement in an independent study program.
- 4. Suspended expulsion with placement in a neighboring District, only with the Superintendent's or her/his designee's approval.
- 5. Expulsion with referral to the Santa Clara County Office of Education Community School/Day Center program or to the Court, only with the approval of the Superintendent.

Recommendations for expelled students and placement take any or all of 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 student's programmatic needs (ELL, IEP, 504 Plan, etc.)

The decision to place students in an alternative placement and actual referral to such a placement is recommended to the Superintendent. All expulsions must be approved by the Loma Prieta Joint Union School District Governing Board and must be aligned to State Education Code and Loma Prieta Joint Union School District Board policy.

LOMA PRIETA JOINT UNION SCHOOL DISTRICT GAPS AND STRATEGIES IN EDUCATIONAL SERVICES

There are gaps that exist in respect to providing educational services to expelled pupils. Following each gap is the Loma Prieta Joint Union School District strategy for addressing these gaps:

Students in the elementary setting/grades one through five who are expelled do not have the same educational options available to them as expelled youth who are in the middle school setting/grades five 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 middle school students. The numbers are growing within the county, but generally are not enough to develop an elementary school program. Should the need arise, younger students who are expelled may be provided with Home Schooling or Independent Study programs.

Given our geographic location, there are limited support services immediately available to families. Those residing in Santa Clara County have access to crisis intervention through Uplift Family Services, but there is no similar agency available to support crisis intervention in Santa Cruz County.

Another gap in our capacity to serve expelled youth is also related to our geography. Students and families that cannot be adequately supported within the Loma Prieta Joint Union School District must travel significant distances to receive placement in educational settings outside the district.

Students who cannot be supported locally or by a neighboring district will be referred to the Santa Clara County Office of Education.

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:

<u>Court Schools*</u> (*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 students 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 GAPS

The gaps identified 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 50 students to larger school districts with 57 schools and over 30,000 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. 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 which will combine multiple resources and options for students, based on their individual learning plan.

LOMA PRIETA JOINT UNION SCHOOL DISTRICT/COUNTY PLAN FOR EXPELLED YOUTH:

Board Policy BP 5144. SUSPENSION AND EXPULSION/DUE PROCESS Proposed Adopted Date: 08/2024

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 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 Development Workshop Manual Loma Prieta Joint Union Elementary School District or at a school activity off school grounds: (Education Code 48915)

- 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, 287, 288, or 289, or former 288a, or committing a sexual battery as defined in Penal Code 243.46.
- 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.

Board Members
Erin Asheghian, President
Charlotte Boisvert-Khandelwal,
Vice President
Ron Bourque, Member
Nora Kim, Member

Denise Ramón Herrera, Member



Superintendent Kevin Grier, Ed. D.

REGULAR BOARD MEETING - BOARD OF TRUSTEES Wednesday, May 29, 2024 23800 Summit Road Los Gatos, CA - Room 21

OPEN SESSION: 6:30PM

Options to view the meeting:

This meeting will be conducted in person and livestreamed. Members of the public will be able to attend in person or view the open session of this meeting at 6:30 PM on Wednesday, May 29, 2024. Live Stream on the Loma Prieta School District YouTube channel at: "Loma Prieta School District Wednesday, May 29, 2024 Board Meeting" or attend in Room 21 on campus at 23800 Summit Road Los Gatos, CA 95033.

Written Correspondence

Members of the public may submit concerns/comments by email to: d.harit@lpjusd.us or via mail to 23800 Summit Road, Los Gatos, CA 95033. To ensure your correspondence is included during the board meeting, we must be in receipt of your correspondence no less than 24 hours prior to the start of this meeting.

Public Concerns/Public Comment:

Public comment and public concerns are limited to three minutes per person and 20 minutes total for each item. All public comment and public concerns must be done in person. Public comment cards must be filled out by community members wishing to speak during open session. Cards may be turned into Diane Harit before the floor is open to public comment for any agenda item.

For disability related accommodations and translation services, please contact Diane Harit at <u>d.harit@lpjusd.us</u> at least one workday prior to the scheduled meeting.

Mission Statement:

Loma Prieta Joint Union School District, a partnership of schools, parents and community, is committed to providing each student with optimal learning opportunities in a safe, stimulating and supportive environment so that each student can reach their full academic and social potential.

*We welcome you to this meeting. The public may ask questions relevant to agenda items at the time those are under consideration. We would appreciate it if you would identify

yourself with your name and address when addressing the Board. Complete a red Public Comment Card to address the board during this board meeting. Complete a green Public Comment Card to request a written response from the board. Twenty minutes are allowed for the Public to address the Board on an item that is not on the agenda during the opportunity for Public Comment. Speakers are asked to limit remarks to three minutes. The Board will take no action 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.

AGENDA

1. CALL TO ORDER

- 1.1 Roll Call
- 1.2 Approval of Agenda
- 1.3 Public Concerns (An opportunity for the public to comment or address the Board on issues to be discussed in Closed Session)

2. RECESS TO CLOSED SESSION – Personnel, Negotiations, Legal Matters - 6:00 p.m.

(Pursuant to Gov't Code Section 54954.2, closed sessions are not open to the public and may only be held for negotiations 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 the law, including Government Code sections 54957 and 54957.6.)

2.1 To Consider the Appointment, Employment, Evaluation,
Discipline or Dismissal of a Public Employee (Superintendent
Contract)

3. OPEN REGULAR SESSION CALL TO ORDER - 6:30 p.m.

- 3.1 Flag Salute
- 3.2 Closed Session Report
- 3.3 Correspondence Written
- 3.4 Public Comment (see above*)

4. RECOGNITION

- 4.1 Appreciation of Service Julie Bourque
- 4.2 Volunteers of the Year

The Following Volunteers of the Year are being recognized:

- Loma Prieta Home & School Club Nams Shugar and Carly Van Leeuwen
- CT English Home & School Club Casey Walter
- Loma Prieta School District Carly Van Leeuwen
- 4.3 CT Sports Co-Ed Track & Field

The Board would like to recognize the athletes who participated in co-ed track and field.

5. REPORTS

- 5.1 Board of Trustees:
- 5.2 Staff:
 - Kevin Grier
 - Amy Ramsay
 - Sandra Fitzpatrick
 - Paul Harville
- 5.3 CTA-LP Karren Zook
- 5.4 CSEA April Fulton
- 5.5 LPEF Shannon Harell
- 5.6 Building Blocks Nicole Gomez
- 5.7 Loma Home & School Club Zoila Mauseth
- 5.8 CTE Home & School Club Ben Abeln

6. PUBLIC HEARING

6.1 Public Hearing of the 2024-25 Local Control and Accountability Plan

The Governing Board of Loma Prieta School District will hold a public hearing to receive recommendations from members of the public regarding the specific actions and investments to be included in the

LCAP during the annual review.

6.2 Public Hearing of the 2024-25 School Year District Budget
As required by Education Code section 42103, the Governing Board of
Loma Prieta Joint Union School District will hold a public hearing on
the adoption of the 2024-25 proposed budget of the District prior to
adoption.

7. DISCUSSION / ACTION ITEMS

7.1 <u>Present and Discuss the 2024-25 Local Control Accountability</u> Plan @

Staff will present the proposed 2024-25 Local Control Accountability Plan (LCAP) for Board Discussion. The final plan will be presented for board approval at the June 12th board meeting.

7.2 Present and Discuss the 2024-25 School Year District Budget

The Board will review the proposed 2024-25 budget which includes expenditures sufficient to implement the actions and strategies included in the proposed 2024-25 LCAP, and a statement of reserve requirement. Projections for 2025-26 and 2026-27 will also be reviewed.

- 7.3 Budget Advisory Committee Update
 Staff will present the outcomes following the May meeting of the Superintendent's Budget Advisory Committee.
- 7.4 <u>Discuss/Adopt Resolution #24-XXI to Establish Tax Rates for</u>
 Bonds ②

This resolution authorizes the Counties Tax Collectors offices to calculate and levy taxes in anticipation of the 3rd and final issuance of the Measure R GO Bond.

7.5 <u>Discuss/Approve California Energy Commission 146 Grant</u>
<u>Agreement #23R5PA1187</u>

The board will consider an agreement to allow the District to accept grant funds for CalSHAPE projects. A scope of work is included in the enclosure.

7.6 <u>Discuss/Adopt Res. #24-XXII – Cal-SHAPE Plumbing Grant</u> <u>Proposed Award</u> *𝒜*

The board will consider a resolution to allow the District to move forward with the CalSHAPE grant for plumbing improvements. A

similar grant was approved by the Board on November 8, 2023 for HVAC improvements.

7.7 <u>Discuss/Adopt Resolution #24-XXIII Authorizing</u> Superintendent to Execute Contracts @

California Education Code Section 48926.

This resolution will allow the Superintendent to enter into contracts between the regularly scheduled board meetings in June and August should any construction projects progress to the point requiring immediate action.

- 7.8 <u>Discuss/Approve 2024-27 Expulsion Plan</u> *∅*The Board will consider updates to the existing expulsion plan per
- 7.9 <u>Discuss/Approve Revisions to 2024 Board Meeting Calendar</u>

Due to scheduling conflicts by District Staff, the Board will consider revisions to the 2024 Board Meeting Calendar.

8. CONSENT SESSION

- 8.1 Approve Consent Items
- 8.2 Approve Personnel Report 5/29/24 @
- 8.3 Approve Professional Services Agreement for Well Project #1
- 8.4 Approve Paul Mooney Inspector of Record Agreement @
- 8.5 <u>Approve Transportation MOU with Lakeside Joint School</u>
 District *∅*
- 8.6 Approve 2024-25 Agreement for 5th Grade Science Camp *₱*
- 8.7 Ratify 2024-25 MOU with Santa Cruz/Silicon Valley New Teacher Project and LPJUSD @
- 8.8 Accept Santa Clara County Treasury Investment Portfolio Status March 31, 2024 @
- 8.9 <u>Approve Agreement between the County of Santa Clara and Loma Prieta Joint Union School District for Legal Services</u> *⊘*
- 8.10 Adopt Res #24-XXIV: Appreciation of Service Julie Bourque

8.11 Approve May 8, 2024 Minutes @

9. FUTURE MEETING DATES

9.1 Wednesday, June 12, 2024 6:30 p.m. – Regular Session Wednesday, July 31, 2024 6:30 p.m. – Board Retreat Wednesday, August 7, 2024 6:30 p.m. – Regular Session Wednesday, September 11, 2024 6:30 p.m. – Regular Session Wednesday, October 9, 2024 6:30 p.m. – Regular Session Wednesday, November 13, 2024 6:30 p.m. – Regular Session Wednesday, December 11, 2024 6:30 p.m. – Organizational Meeting/Regular Session

10. ADJOURNMENT

10.1 Adjourn Meeting

Individuals requiring special accommodations (American Sign Language interpreter, accessible seating, documentation in accessible formats, etc.) should contact the Superintendent's Office at least two working days before the meeting date.



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

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 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.

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(cf. 5131 - Conduct)
(cf. 5131.1 - Bus Conduct)
(cf. 5131.2 - Bullying)
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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(U))

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/oshs

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)

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(U))
- 11. Knowingly received stolen school property or private property (Education Code 48900(1))
- 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))

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(cf. 1114 - District-Sponsored Social Media)
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(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 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 advisement, 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. (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 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 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(U))

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(U))
- 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. 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

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Mt. Pleasant School District Board of Trustees

Melissa Got-Lopez Derek Grasty Antonio Perez Jr. Robert Ramirez Brenda M. Serrano

Dr. Elida MacArthur, Superintendent

Three-Year Expulsion Plan Between the Mt. Pleasant School District

And

Santa Clara County Office of Education

Implementation of Education Code 48916.1

2024-2027

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.

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 increased the focus in the area of equity to ensure that certain groups are not disproportionally receiving exclusionary discipline including 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 <u>Current program offerings, interventions, and administrative referrals or placements.</u>

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 or Principal	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
Data Evaluation	Annual District data collection to evaluate discipline practices and implementation to ensure that three 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 as needed after site supports have been exhausted	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 remained the same 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 in MPESD over the last nine years.

- Transportation to appropriate programming is an ongoing 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
 middleschool 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 concerns.

Current strategies for filling the gaps in services

- To address the placement gaps identified above, the District is looking to collaborate 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 neighboring School Districts to support student placement on a case by case basis.
- 5. Independent Study or Home Instruction may be considered if a Parent/Guardian declines 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

- 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.



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 29, 2024

Oak Grove School District, 6578 Santa Teresa Boulevard, San Jose, CA 95119

PENDING APPROVAL BY BOARD OF TRUSTEES ON:

June 13, 2024

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, 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 pupils in that county. The initial plan was to be adopted by the governing board of each school district within the county and by the county board of education and submitted to the State Superintendent of Public Instruction (SSPI) in 1997. EC Section 48926 also requires that each county superintendent of schools, in conjunction with district superintendents in the county, submit a triennial update to that plan to the SSPI.

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.

• Identified Gap:

The Oak Grove School District has a disproportionate representation of minority students being expelled.

Strategy:

The Oak Grove School District will reexamine current practices to support early identification of students that may be at risk of being expelled in order to provide early interventions through social workers, counselors, and mental health specialists. Equity based professional development will create further awareness to develop a variety of approaches to support students of color inside and outside the classroom. We will convene a committee of principals, district office administrators, and other diverse staff to draft the culturally responsive and equitable behavior matrix with consultant consultation and collaboration.

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.

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(cf. 5131 - Conduct)
(cf. 5131.1 - Bus Conduct)
(cf. 5131.2 - Bullying)
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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

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(cf. 5112.5 - Open/Closed Campus)
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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)

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(cf. 5138 - Conflict Resolution/Peer Mediation)
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(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.

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(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)
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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.



Sunnyvale School District Plan for Expelled Youth

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Tasha L. Dean Ed.D., Chief Teaching and Learning Officer Paul Slayton, Director of Student Support Services Gabriela Sanchez, Student Services Technician

SUNNYVALE SCHOOL DISTRICT PLAN FOR SERVING EXPELLED STUDENTS IMPLEMENTATION of EDUCATION CODE 48916.1

Developed by Sunnyvale School District 2024

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.
 - b. identify gaps in educational services to expelled pupils.
 - c. identify strategies for filling service gaps should expelled students.
 - i. fail to succeed in Community Day School Programs
 - ii. fail to meet the terms and conditions of their rehabilitation plan.
 - iii. 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 May 31, 2024, and update the plan every three years.

EDUCATIONAL ALTERNATIVES FOR EXPELLED STUDENTSSunnyvale School District Alternatives for Expelled Youth

The Sunnyvale School District offers the following options for expelled youth, depending on circumstances, details surrounding the specific offense, and guidance from Education Code regarding the specific violation:

- 1. Suspended expulsion with placement at the same comprehensive school campus within the district
- 2. Suspended expulsion with placement at a different comprehensive school campus within the district
- 3. Suspended expulsion with placement in Independent Study (in cooperation with parent/guardian)
- 4. Expulsion with placement on home teaching
- 5. Expulsion with referral to Santa Clara Unified Community School Program (grades 6-8)
- 6. Expulsion with referral to Santa Clara County Community School Program (grades 6-8)

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 Daily educational programs that meet the requirement of 240-360 minutes per day in community classrooms including smaller class sizes and with 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 IN EDUCATION SERVICES FOR EXPELLED STUDENTS AND STRATEGIES FOR FILLING THOSE GAPS

There are four major gaps that exist with respect to providing educational services to expelled students. Following each identified gap is the strategy addressing the gaps:

1. Identified Gap – Returning Students

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 48915 and be referred back to the Sunnyvale School District.

Strategy for Addressing this Gap:

Sunnyvale School District collaborates with neighboring districts and nonpublic schools to provide a regional option to refer appropriate students to as needed. The district will also use its Independent Study program to include targeted supports that will allow the district to place students who are able to meet individualized goals set in the program.

Expelled students who have not been able to meet the goals of placement in Sunnyvale programs or Independent Study option may be referred to the county-operated Community Day School. If the student fails the program or commits another expellable offense, viable alternatives may be few. Sunnyvale continues to work with agencies in the county to address the needs of students and will work with the SCCOE to address additional concerns on an individualized basis.

The Sunnyvale School District will continue to use existing educational strategies and program 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.

2. Identified Gap – In-District school programs for expelled youth.

Small school districts generally expel few students during a school year. Given such a small cohort of expelled students, having a specialized school program located in-district, is not financially or programmatically possible.

Strategy for Addressing this Gap:

Sunnyvale School District continues to collaborate with the Santa Clara County Office of Education around program options to assist with the educational needs of middle school students. In addition, the district will continue working with Pacific Clinics, Esther B. Clark, and other community agencies/programs to design program options for students.

3. Identified Gap – Disparate options for younger expelled students.

Partially due to the small number of students in kindergarten through fifth grade who are expelled, younger students do not have the same educational options available as do expelled youth in grades six through eight. These younger students cannot attend the programs designed for middle and high school students.

Strategy for Addressing Gap

Though Sunnyvale School District has not had an elementary expulsion case, the district would use its Independent Study option when appropriate and needed for such students. Sunnyvale School District will continue to provide alternatives to expulsion (such as reassignment to other district schools and Independent Studies as appropriate. Options for K-8 districts continue to be limited and Sunnyvale has maintained ongoing collaboration 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 identify community options for mentoring after school support and mentoring for students. The district offers Parent Project for parents K-8 including classes for Spanish speaking parents. Sunnyvale's program offerings focus on a proactive mindset and prevention 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.

SUNNYVALE SCHOOL DISTRICT BEHAVIOR PRACTICES

- Pre-pandemic, the district transitioned from a Student Review Team model of student intervention to Site and District MTSS teams that focus on aligning behavioral, academic, attendance and socio-emotional interventions to student cases on an individual basis.
- Challenging student cases requiring additional support are referred to District Student Support Services for input and next steps. Elements of the MTSS system include:
 - o Site SST and Attendance teams
 - o District level Behavior and Attendance Review Team (SARB)
 - o Coaching and support for Positive Behavior Intervention Systems (PBIS) at each site, facilitated by site Culture and Climate Teams that meet monthly with Coordinator of Behavior Intervention Services.
- The philosophy of Student Support Services is to identify and implement alternatives to suspensions and expulsions, and to foster ongoing collaboration with Site and District teams to support the whole child.
- Purpose of site MTSS teams:
 - o Student case review
 - o Based on individual student concerns, develop individualized interventions
 - o Case monitoring to ensure fidelity of intervention implementation.
- Composition of MTSS team:
 - o District and School Administrators
 - o School Psychologists
 - o Social worker/counselor
 - o Teachers
 - o Sunnyvale Department of Public Safety Neighborhood Resource Officers (as needed)
 - o Other Staff (as needed)
- Advantages of creation of the team:
 - o Maintaining 0-1 total expelled students annually
 - o Utilize data from the universal SEL screener to inform practice.
 - o Increase the use of school-wide, universal academic and behavior data.
 - o Improve use of evidence-based academic, behavioral, and attendance practices
 - o Review and evaluate tiered interventions for academic, behavioral, and socio-emotional needs of students.
 - o Positive, student-centered interventions implemented with fidelity.
 - o Academic, behavioral, and socio-emotional data is included in MTSS/SST plans at each tier.

SPECIFIC WORK TO ADDRESS DISPROPORTIANALITY IN BEHAVIOR INTERVENTION

Overrepresentation of certain racial or ethnic groups (often Black and Latino students) in disciplinary actions such as suspensions, expulsions, or referrals to special education programs, compared to their White peers is a County-wide concern. Addressing the disproportionate representation of minority students in behavior interventions within the district is a focus of Sunnyvale School District.

Through Equity and Anti-Racism work, Sunnyvale School District leadership has developed an understanding that addressing the relationship between behavior practices and disproportionate representation of minority students requires examining the policies and procedures governing student behavior management. Below is a summary of three different areas of focus:

- 1. **Implicit Bias**: As educators and administrators, we consciously or unconsciously may hold implicit biases that influence our perceptions and responses to student behavior. Research shows that teachers may perceive the same behavior differently depending on the student's race or ethnicity, leading to disparities in disciplinary actions. For example, a study might show that a student of color is more likely to be perceived as aggressive compared to a White student exhibiting the same behavior.
- 2. **Cultural Disconnect**: Behavior norms and communication styles vary across cultures. Misunderstandings between educators and students from different cultural backgrounds can escalate minor incidents and result in disciplinary actions. Without cultural competence training for staff or culturally responsive disciplinary practices, minority students may be disproportionately targeted for disciplinary measures.
- 3. **Resource Allocation**: Schools serving predominantly minority populations may lack resources for alternative disciplinary measures such as counseling, restorative justice programs, or mental health services. As a result, punitive measures like suspensions or expulsions become the default response to behavioral issues, perpetuating the cycle of disproportionality.

Sunnyvale School District has chosen to adopt a proactive approach to address each of these areas by implementing the following.

- 1. Provide professional development for District leadership around identifying implicit bias, cultural competence, and effective classroom management strategies.
- 2. Alongside contextualized and flexible consequences for behavior, implement restorative justice practices that focus on repairing harm, building relationships, and fostering empathy rather than only exclusionary measures.
- 3. Reviewing discipline policies and practices to ensure they are fair, equitable, and aligned with the goal of reducing disparities.
- 4. Collecting and analyzing discipline data disaggregated by race and ethnicity to identify patterns of disproportionality and inform targeted interventions.

By implementing these recommendations, Sunnyvale school district can work toward more equitable learning environments where all students can thrive.

Status: ADOPTED

Policy 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 03/22/2018

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 presented 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 students who are homeless, students with actual or perceived ancestry, color, national origin, sex, age, religion, gender, sexual orientation, gender expression, gender identity, actual or potential marital or parental status, pregnancy, actual or potential family status, nationality, race or ethnicity, ethnic group identification, medical condition, genetic information. 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)

Status: ADOPTED

Regulation 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 03/08/2018

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. Knowingly received stolen school property or private property (Education Code 48900(I))
- 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.

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:

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)

d. If the student involved is a child or youth who is homeless, the Superintendent or designee shall notify the district liaison for students who are homeless. (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 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)

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 Students Who are Homeless

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 student who is homeless, the Superintendent or designee shall also send notice of the hearing to the district liaison for students who are homeless 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 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: 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 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)

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)

Status: ADOPTED

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

Original Adopted Date: 09/13/2019

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)



MEETING MINUTES

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.

- Agenda materials are available online and in the Superintendent's Office upon request.
- Individuals requiring special accommodation should contact the Superintendent's Office at least two working days before the meeting date.

LIVE STREAM: CLICK HERE(https://simbli.eboardsolutions.com//SU/hsH80s9UxS2fG3YJyHf0slshA==)

Attendees

Voting Members

Michelle Maginot, Board Member Nancy Newkirk, Board Member Bridget Watson, Board Member Isabel Jubes-Flamerich, Board Member Eileen Le, Board Member

1. OPENING OF MEETING BY BOARD PRESIDENT

Board President Jubes-Flamerich called the meeting to order at 6:00 PM.

A. Roll Call

All Trustees were present.

B. Pledge of Allegiance

Board President Jubes-Flamerich led the flag salute.

C. Living Land Acknowledgement

Board President Jubes-Flamerich read the Living Land Acknowledgement statement.

2. APPROVAL OF AGENDA

On motion by Bridget Watson and second by Nancy Newkirk, the Board of Education voted to extend the meeting until 10:00 PM. (VOTE: 5-0)

Motion made by: Bridget Watson Motion seconded by: Nancy Newkirk

Voting:

3. STUDY SESSION

A. Local Control and Accountability Plan (LCAP) Goals & Actions Aligned with Strategic Plan

Mutui Fagbayi and Rose anger from Performance Fact Inc. led the discussion on the Strategic Plan 4-page document.

Tasha L. Dean, Chief Teaching and Learning Officer, led the discussion on the LCAP. See PowerPoint and Strategic Plan pamphlet for details.

4. COMMENTS FROM THE BOARD AND SUPERINTENDENT

Michelle Maginot:

• Expressed having fun with her family for Spring Break.

Nancy Newkirk:

- Attended Coast2Coast in Washington D.C.
- Acknowledged that it was Administrative Professionals week and presented Jesus Romero, Administrative Assistant to the Superintendent, with a card.

Eileen Le:

- Attended:
 - FUHSD Mixer
 - FUHSD Board Meeting
 - Awareness Workshop in Mt. View
 - Juntos Meeting at San Miguel

Bridget Watson:

- Attended:
 - Santa Clara County Board of Supervisors (SCCBOS): President Ellenberg's Roundtable Update: Mental Health
 - Sunnyvale Unhoused Collaborative, hosted by County Supervisor Otto Lee's Office and the City of Sunnyvale
 - Columbia Middle School (CMS) Spring Family Festival
 - Santa Clara County School Boards Association (SCCSBA) Legislative Action Committee (LAC) Planning Meeting
 - SCCSBA Candidate Information Workshop
 - CSBA Region 20 Delegate Update: Prop 98 workshop and Pre-Delegate Assembly Information
 - Santa Clara County Board of Education (SCCBOE) Meeting
 - Vargas Board Site Visit with Trustee Jubes- Flamerich
 - Hoffmann Awards Planning Meeting
 - SCCSBA Monthly Lunch and Learn with County Superintendent Dr. Dewan
- Volunteered:
 - Sunnyvale Middle School
- Reminders to trustees:
 - Wednesday, May 8th, SCCSBA Hoffmann Awards (chaired by Trustee Jubes-

Flamerich). Open to Trustees, Superintendents, and District Staff only.

Isabel Jubes-Flaermich:

- Attended:
 - Visit School sites
 - Walkathons (Various Schools)
 - Vargas Elementary Open House
 - Scouting: Meetings
 - Meetings with Santa Clara County School Boards Association (SCCSBA)
 - Hoffman awards meetings
 - Sunnyvale Education Foundation (SEF) Meetings
 - Facility Department Meeting
 - CLSBA Board meetings; CLSBA Communication Committee meetings; Initial planning meetings for the annual conference
 - Project Cornerstone: Asset Champions Breakfast
 - Assembly District 26 Woman of the Year Celebration
 - Unhoused Student Focus Group
 - SEF Showcase
 - CFSCPSA Luncheon Topic: AI
 - 6 day federal advocacy meetings in Washington DC, representing public education and CSBA, including state and county organization meetings, training seminars, Capitol Hill meetings, and congress people audiences for student advocacy.
 - Event at SCCOE (Yought Innovation for Sustainability)
 - Initial Meeting for Legislation Action Committee with SCCSBA
 - Quarterly meeting for Delegate Assembly (CSBA)
 - Scouting: Various Meetings
 - Hoffman awards meetings

Superintendent Dr. Gallagher:

- Expressed that Fremont Union High School District had their board meeting on Trustee Areas.
- Reminded the Board of Education that Sunnyvale School District will be having a Trustee Election in November for Trustee Area #2 and #5.
- Reminded the Board of Education of the Equity Summit that is scheduled for April 27, 2024.
- Informed the Board that SEF-PTA had a meeting.

5. COMMENTS FROM THE SUNNYVALE EDUCATION ASSOCIATION

None

6. COMMENTS FROM THE CALIFORNIA SCHOOL EMPLOYEES ASSOCIATION

None

7. COMMENTS FROM THE PUBLIC

Michael Flores, a community member, expressed concern about parking next San Miguel School. Mr. Flores expressed having the loading zone at the school site changed for evenings and weekends. He expressed concern about staff parking in front of his house.

Harini Jambunathan, a parent and community member, expressed having a District Sponsored Charter School with SSD.

Peggy Brewster, parent, informed the Board about the SEF-PTA Meeting that was held with discussions on equity enrichment.

8. CONSENT AGENDA ITEMS

On a motion by Michelle Maginot and second by Bridget Watson, the Board of Education approved items #A through #K and pulled item #D for discussion. (VOTE: 5-0)

A. Approval of Minutes

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

B. Approval of Personnel Assignment Order 23-16

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

C. Approval of General Contractor Agreements (Shaunin Baoerjiin, Cal Compliance, Cal Compliance, Cal Compliance, Faber Communication, Construction Testing Service, Steel Inspectors of Texas, Inc., Cal Compliance, Portola Systems Inc., Panorama Education, Inc., AVID Center, Pacific Clinics)

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

D. Approval of Assignment of Credentialed Personnel

On a motion by Bridget Watson and second by Nancy Newkirk, the Board of Education approved Assisgnment of Credentialed Personnel. (VOTE: 5-0)

Motion made by: Bridget Watson Motion seconded by: Nancy Newkirk

Voting:

Unanimously Approved

E. Approval of Memorandum of Understand (MOU) between Sunnyvale School District and California School Employee Association and its Chapter #205 (CSEA) Re: Food Service Staffing Positions at Sunnyvale Middle School

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

F. Approval of Memorandum of Understand (MOU) between Sunnyvale School District and California School Employee Association and its Chapter #205 (CSEA) Re: Job Description and Range for Mental Health and Wellness Associate

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

G. Approval of Change Order #10 - Ellis Elementary School Modernization and New Construction Increments I & II - Sausal Corporation

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

H. Approval of the Sunnyvale School District Plan for Expelled Youth

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

I. Approval of the Proposed Overnight Field Trips – Columbia, California Overnight Trip to Gold Country

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

J. Acceptance of Donations to the District

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

K. Approval of Purchase Orders and Warrants Reports

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

9. REVIEW & DISCUSS

A. Sunnyvale State Preschool Program Self Evaluation, Fiscal Year 2023-2024

Stacy Esquibel, Preschool Program Manager, reported on Sunnyvale State Preschool Program.

10. REVIEW AND ACTION

A. Public Hearing and Adoption of Middle School Math Curriculum Adoption

OPEN: 9:13 PM CLOSED: 9:14 PM On a motion by Bridget Watson and second by Nancy Newkirk, the Board of Education adopted *Desmos* as the new Math 6, Math 7, Math 8, Math 6/7, and Math 7/8 curriculum and *Illustrative Mathematics* as the new Geometry curriculum.

Motion made by: Bridget Watson Motion seconded by: Nancy Newkirk

Voting:

Unanimously Approved

B. Approval of Amendment No. 2 to the Facilities Lease for the Sunnyvale Middle School 2-Story Classroom Building Project and Authorization to Enter into Amended Lease-Leaseback Agreement

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

C. Approval of Declaration of Need for Fully Qualified Educators

Motion made by: Nancy Newkirk Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

D. 2023-2024 Teacher of the Year Nominations

On a motion by Michelle Maginot and second by Bridget Watson, the board of Education accepted and voted for Divya Bhasin for Teacher of the Year. (VOTE: 5-0)

Motion made by: Michelle Maginot Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

E. 2023-2024 Classified Employee of the Year Nominations

On a motion by Nancy Newkirk and second by Bridget Watson, the Board of Education accepted and voted for Rigo Sosa for Classified Employee of the Year. (VOTE: 5-0)

Motion made by: Nancy Newkirk Motion seconded by: Bridget Watson

Voting:

Unanimously Approved

F. 2023-2024 Management Team Member of the Year Nominations

On a motion by Bridget Watson and second by Michelle Maginot, the Board of Education accepted and voted for Kathryn Armstrong for Management Team Member of the Year. (VOTE: 5-0)

Motion made by: Bridget Watson
Motion seconded by: Michelle Maginot

Voting:

Unanimously Approved

11	DIBLIC	COMMENITS	ON CLOSED	SESSION ITEMS	:
тт.	PUBLIC	COMMENTS	ON CLUSED	DEDDION I LEIVIZ)

The Board of Education skipped board agenda items #11 and #12 due to time.

12. CONVENE TO CLOSED SESSION

The Board of Education skipped board agenda items #11 and #12 due to time.

- A. Public Employee Performance Evaluation (Gov Code 54957): Superintendent
- B. Public Employment (Gov Code 54957): Superintendent, Assistant Superintendent of Human Resources and Information Systems, and, Chief Teaching and Learning Officer

13. RECONVENE TO OPEN SESSION

A. Closed Session Annoucements

14. FUTURE MEETINGS/ADJOURNMENT

9:51 PM

The Board of Education	n adjourned the meeting.

Clerk, Board of Education	Date Approved



Union School District

Plan for Expelled Youth 2024-2027

A JOINT PLAN

BETWEEN

THE UNION SCHOOL DISTRICT

AND

THE COUNTY OFFICE OF EDUCATION

FOR

THE IMPLEMENTATION OF

EDUCATION CODES 48916.1 AND 48926

Developed by

UNION SCHOOL DISTRICT

AND

SANTA CLARA COUNTY OFFICE OF EDUCATION

2024-2027

INTRODUCTION PAGE

UNION SCHOOL DISTRICT PLAN FOR ALTERNATIVE EDUCATIONAL SETTING

Educational programs within Santa Clara County provide opportunities for students who require traditional and alternative educational programs. 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 designed by the district of residence. This plan may involve one or more of the options outlined. A student needing an educational alternative may access these programs through a District and 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 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.

UNION 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 range from 240-300 minutes per day in community classrooms.
- 2. An Independent Study Program (IS) that requires students to complete a minimum of 20 hours of educational product.

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

UNION SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED YOUTH

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

Title of Program/Activity	Activity	Grade Level
Positive Behavior Intervention and Support	ntervention and campus, positive reinforcements provided to students who	
Multi-Tiered System of Support	Multi-Tiered System of Supports: Clearly defined Tier 1 supports for all students, and Tier 2 and 3 supports for students that may need support.	TK-8
Student Attendance Review Team/Student Success Team	Student Attendance Review Teams track attendance. Student Study Teams review academic, behavioral and social interventions to support individual students.	TK-8
Student Attendance Review Board	The Student Attendance Review Board monitors attendance and puts interventions in place to ensure school attendance.	TK-8
Union Mental Health Wellness	General education counseling and or mental health support for students in need of mental health support. Referred through the SST process, parent request or student request.	TK-8
Social Emotional Learning Curriculum	Kimochis, Second Step, and Caring Communities in TK-5. Second Step and Character Counts in 6-8.	TK-8

Union 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 campuses within the District;
- 2. Suspended expulsion with placement in an online education program monitored by the Union School District;
- 3. Suspended expulsion with placement on a different school campus in a neighboring District (Cambrian School District), with the Superintendent's or their designee's approval;

4. Expulsion with referral to the Santa Clara County Office of Education Community School/Day Center Program.

Recommendations for expelled students and placement consider the following information:

- The student's age
- The student's academic, attendance, and discipline history
- Parental involvement in the student's rehabilitation plan
- Review of incidents to see if they fall under the Mandatory Expulsion category.

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 Union School District Governing Board and aligned to the State Education Code and Union School District Board Policy.

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

There are identified gaps that exist with respect to providing education services to expelled pupils. Following each gap are the Santa Clara COE/Union School District strategies 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 Union School 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 Union School District.
 - a. <u>Santa Clara County/Union School District strategy for addressing this gap:</u>
 Union School District 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:
 Union School District has built relationships with district/county Community Day Schools and feels confident we could use these relationships to address this identified gap. Union School District has also implemented a de-escalation 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.
- 1. Students who have failed their County Community Day School placement 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/Union School 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.
 - b. <u>Evaluation of success in addressing this gap:</u>
 Union School District is committed to supporting students by developing an individualized

restorative justice practice to help them succeed in the recommended program and potentially return to the Union School District. Each student will have an individualized plan with measurable goals and benchmarks to evaluate their progress and ongoing counseling support.

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

1. Students in grades one through five who are expelled have different educational options available than expelled youth who are in grades six through eight due to the limited number 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 need to be more robust to develop an elementary school program.

Santa Clara County/Union School District strategy for addressing this gap:

- Union School District is exploring partnerships with districts in SELPA III to support the alternative placement options for expelled K-8 students.
- Union School District could provide an option for a student in grades 1-5 to enroll in a virtual learning program with a teacher, weekly check-ins with the Director of Student Services, and training for parents who will support the learning at home.
- Union School District will continue to research options for placement at other school sites within our district or surrounding districts.

Union School District Board Policies on Expulsion

STUDENTS

Suspension and Expulsion/Due Process Definitions

Policy 5144.1

Adopted: 4/15/2019 reviewed on 5/10/2021

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 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 expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and implementing suspension and expulsion shall be only those specified in law, in this policy, 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 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 or a school activity off school grounds, or to or from school: (Education Code 48915)

- 1. Possessing a firearm that 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. 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 a closed Board meeting session and reported out in open session.

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 that 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 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. It shall determine whether and how the district meets its goals for improving school climate as specified in its local control and accountability plan.

STUDENTS

Suspension and Expulsion/Due Process

I. Definitions

Regulation 5144.1

Adopted: November 14, 2016

Definitions

Suspension means the 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 the 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-8

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(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, e-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))
- 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(1))
- 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 items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-8," 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 website, 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 website 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. (Education Code 48900(r))

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))

- 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)

Any student in grades 4-8 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 4-8 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)
- 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)

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-8" 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)

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-8" 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. (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, presented with the available 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 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)

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.

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).
- 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.

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, 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-8" and "Additional Grounds for Suspension and Expulsion: Grades 4-8" 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.
 - 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 he/she 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 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 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 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: Grades K-8" or "Additional Grounds for Suspension and Expulsion: Grades 4-8" (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-8" or "Additional Grounds for Suspension and Expulsion: Grades 4-8" 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 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)

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, 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-8" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-8" 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 7-8. (Education Code 48916.1)

Readmission After Expulsion

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

- 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)

UNION SCHOOL DISTRICT/COUNTY PLAN FOR EXPELLED YOUTH

Education code – 68926:

Each county superintendent of 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 alternatives for expelled pupils, identify gaps in education services to expelled pupils, and strategies for filing 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 HIGH SCHOOL DISTRICT



PLAN FOR EXPELLED YOUTH 2024-2027

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 Coordination of Services Team (COST) 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).
- A site team at each CUHSD school is trained in Restorative Justice Practices that consists, of Teachers, Counselors, and Administrators, that are culturally relevant and healing focused and apply the philosophy and strategies to their work with students.
- Administrators are trained in equity leadership
- Administrators, Counselors and Teachers are being trained in equity focused curriculum and guidance alignment and assessment development.
- Students are referred to the Brief Intervention (BI) Counseling program, offered by Pacific Clinic 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: Pacific Clinic counselor, CASSY counselor, Wellness Center Coordinators and the School Counselors.
- Ethnic Studies classes will be implemented district wide
- District will explore threat assessment training that take into account the whole child.

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.

<u>Districtwide Gaps in Educational Services to Expelled Youth</u>

1. We have found that our students who identify as Latino/a are disproportionately affected in our Expulsion numbers. Students who identify as Latino/a make up 36% of our total population. From 2021-2024 they made up 84% of the students who were referred to the expulsion process.

2.

- a. 56% placed at Sunol
- b. 7% placed at district Adult Education (stipulated agreement)
- c. 10% placed in district Independent Study Program
- d. 7% placed at other district site
- e. 20% 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.

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(cf. 5131 - Conduct)
(cf. 5131.1 - Bus Conduct)
(cf. 5131.2 - Bullying)
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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

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(cf. 5112.5 - Open/Closed Campus)
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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.

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(cf. 0410 - Nondiscrimination in District Programs and Activities)
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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)

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(cf. 5138 - Conflict Resolution/Peer Mediation)
(cf. 5144 - Discipline)
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(cf. 6142.4 - Service Learning/Community Service Classes)
(cf. 6164.2 - Guidance/Counseling Services)
(cf. 6164.5 - Student Success Teams)
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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.

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(cf. 5113 - Absences and Excuses)
(cf. 5113.1 - Chronic Absence and Truancy)
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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

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(cf. 5131.7 - Weapons and Dangerous Instruments)
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- 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).

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

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

Policy adopted: November 1, 2012 Policy revised: September 6, 2018 Policy revised: December 13, 2018 Policy revised: May 21, 2020

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)

- 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, so long as removal from a particular class does 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)

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: Grade 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 11053-11059, 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 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the same as a 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(I))
- 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, 287, 288, 289, or former 288a, 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(s) 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))

Burn page means an internet website created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (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 out the crime. (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 #1-19 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)

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (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 away from school 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 upon a student, including supervised suspension, 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 class, 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:

 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 in the student's 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, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. 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. for the conference. (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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, 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)

- 4. In addition, the notice may state the date and time when the student may return to school.
- 5. Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct 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, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference. (Education Code 48911)

- 6. 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/quardian 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.
 - c. If the student involved is a foster youth or Indian child, the Superintendent or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, 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)
 - e. 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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student if an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall 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 11053-11059, except for:
 - a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabi
 - b. The student's possession of over-the-counter medication for use by the student for medical purposes
 - c. Medication prescribed for the student 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 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 offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, 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 written notice of the expulsion hearing pursuant to Education Code 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. 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, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, 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, Homeless Students, and Indian Children

If the student facing expulsion is a foster student or Indian child, the Superintendent or designee shall also send notice of the hearing to the foster youth's' educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar 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 calendar 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 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(q))
- 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 #6 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

If a student is expelled from school, 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 student's parent/guardian, or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian or other person holding the right to make educational decisions for the student 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 student's parent/guardian or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian, or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian, or other person holding the right to make educational decisions for the student, 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.

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)

Description

Policy Reference Disclaimer:

State

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
CCP. 1985-1997	Production of evidence; means of production
Civ. Code 47	<u>Privileged communication</u>
Civ. Code 48.8	Defamation liability
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985

Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment
Ed. Code 48660-48666	Community day schools
Ed. Code 48853-48853.5	Foster youth
Ed. Code 48900-48927	Suspension and expulsion
Ed. Code 48950	Speech and other communication
Ed. Code 48980	Parent/Guardian notifications
Ed. Code 49073-49079	Privacy of student records
Ed. Code 52052	Numerically significant student subgroups
Ed. Code 52060-52077	Local control and accountability plan
Ed. Code 64000-64001	Consolidated application
Ed. Code 8489-8489.1	Prohibition against expulsion of preschool student
Gov. Code 11455.20	Informal hearing procedures
Gov. Code 54950-54963	The Ralph M. Brown Act
H&S Code 11014.5	Drug paraphernalia
H&S Code 11053-11059	Controlled substances; standards and schedules
Lab. Code 230.7	Employee time off to appear in school on behalf of a child
Pen. Code 240	Assault defined
Pen. Code 241.2	Assault fines

Pen. Code 242	Battery defined
Pen. Code 243.2	Battery on school property
Pen. Code 243.4	Sexual battery
Pen. Code 245	Assault with deadly weapon
Pen. Code 245.6	Hazing
Pen. Code 261	Rape defined
Pen. Code 266c	Unlawful sexual intercourse
Pen. Code 286	Sodomy defined
Pen. Code 287	Oral Copulation
Pen. Code 288	Lewd or lascivious acts with child under age 14
Pen. Code 289	Penetration of genital or anal openings
Pen. Code 31	Principal of a crime; defined
Pen. Code 417.27	Laser pointers
Pen. Code 422.55	Definition of hate crime
Pen. Code 422.6	Crimes; harassment
Pen. Code 422.7	Aggravating factors for punishment
Pen. Code 422.75	Enhanced penalties for hate crimes
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Pen. Code 868.5	Supporting person; attendance during testimony of witness

W&I Code 224.1	Indian child; definition
W&I Code 729.6	Counseling
Federal	Description
18 USC 921	Definitions; firearms and ammunition
20 USC 1415(K)	Students with disabilities; placement in alternative educational setting
20 USC 7961	Gun-Free Schools Act
42 USC 11431-11435	Education of homeless children and youths
Management Resources	Description
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)
Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal. App. 4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
Website	CSBA District and County Office of Education Legal Services

U.S. Department of Education, Office of Safe and Healthy Students

Website

Website	California Attorney General's Office
Website	California Department of Education
Website	<u>CSBA</u>
Website	U.S. Department of Education, Office for Civil Rights
Cross References	
Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
1114	District-Sponsored Social Media
1114	District-Sponsored Social Media
1312.3	Uniform Complaint Procedures
1313	Civility
3513.3	Tobacco-Free Schools
3513.3	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security

3515.21	Unmanned Aircraft Systems (Drones)
3515.3	District Police/Security Department
3515.3	District Police/Security Department
3515.31	School Resource Officers
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3516.2	Bomb Threats
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision

5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments

5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5138	Conflict Resolution/Peer Mediation
5142	Safety
5142	Safety
5144	Discipline
5144	Discipline
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5144.4	Required Parental Attendance
5144.4	Required Parental Attendance
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression
5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
5145.71	Title IX Sexual Harassment Complaint Procedures

5145.9	Hate-Motivated Behavior
5148.3	Preschool/Early Childhood Education
5148.3	Preschool/Early Childhood Education
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6145.5	Student Organizations And Equal Access
6145.5	Student Organizations And Equal Access
6145.8	Assemblies And Special Events
6153	School-Sponsored Trips
6153	School-Sponsored Trips
6154	Homework/Makeup Work
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6158	Independent Study
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CAMPBELL UNION HIGH SCHOOL DISTRICT

Regulation approved: November 1, 2018 Regulation revised: December 14, 2018

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East Side Union High School District

Expulsion Plan 2024-2027

Introduction

Every three years, East Side Union develops a plan to support at-promised 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 by building and sustaining 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 which 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 a Multi-Tiered Systems of Support (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 a systems response. Our approach to a systems response is by ensuring we have equitable policies in place, by removing student barriers, that we have appropriate practices in place with the goal of having all students attain success. In order to ensure that equity is centered in our behavior responses we are continuing 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 through a proactive approach. 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 includes the response and approach of teachers, administrators, district office, student advisors, social workers, and essentially 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. By Utilizing an MTSS framework, we are able to ensure that all students can access what they need to ensure they are successful.

- 1. Data-based decision making,
- 2. Measurable outcomes supported and evaluated by data,
- 3. Practices with evidence to ensure 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 strategies 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.

Through the MTSS framework, our schools organize their evidence-based behavioral practices and systems into an integrated collection or continuum in which students experience support 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).

<u>Tier 1 – Positive Behavior Interventions and Supports</u>

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 family's primary language.

Behavior Responses with Change of Enrollment

Transfer to another comprehensive school within the district (Grades 9 to 12) Students may voluntarily move to another high school in the district. This provides the student with a fresh start and the opportunity to access a school that may have the academic program that they need.



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 through 12)

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 School (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 they allow 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 the 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 week grading periods. Students can earn credits every six weeks. Semester end dates and holidays are the same as the comprehensive high schools within 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; however, the credits needed are 200. 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 students 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 the 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, for juniors and seniors, to a continuation high 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 an administrative panel 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.

Should a student not be successful at Sunol Community Day School, the school district and the community day school will collaborate to discuss behaviors, academics, safety, and placement.

In the 2023-2024 school year, we had several students who were expelled but due to safety concerns were not able to attend Sunol Community Day School. Therefore, they remained on independent studies or home instruction. The students were offered an opportunity to come to the district office weekly to access a culturally relevant social-emotional group to support their needs facilitated by the National Compadres Network. Each student was offered 1:1 tutoring as well.

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.

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 2027 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 or the Ranch

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.

Part of the re-entry process includes an evaluation of the rehabilitation plan, assessing the student and family readiness, academic progress and any safety concerns for the student to return to the resident school. After a collaborative conversation, then a mutual decision is made on the school that the student will re-enter into. The student has the right to return to the resident school; however, many times the family requests a different school.

Part of the transition process includes the school site being ready to receive the student and scheduling a transition meeting at the school site. Should the student be a foster youth and/or justice engaged youth, the student transition and support specialist will also join the transition meeting and will continue to support the student.

Fremont Union High School District Three Year Expulsion Plan

Between
Fremont Union High School District
And
Santa Clara County Office of Education

For the Implementation of California Education Code 48926

Graham Clark, Superintendent

Alison Coy, Director of Educational Options

Fremont Union High School District Triennial Expulsion Plan for 2024-2027

California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of school districts within the county, to develop a plan for providing educational services to all expelled pupils in that county.

The following plan describes the policies, procedures, and practices of Fremont Union High School District to ensure equitable intervention practices and educational options are implemented before, during, and after an expulsion for the affected pupil.

The information in this document reflects a triennial update of the 2021 plan, and is formatted to respond to the requirements and recommendations put forth by the California Department of Education.

Plan approved by the Fremont Union High School District Board of Trustees on May 7, 2024.

The **Fremont Union High School District** believes that expulsion should be a last resort response to student behavior, reserved for situations where a student's negative behavior puts others at risk or is a violation of mandatory expulsion education code. In all situations, school staff need to know and use behavioral best practices to guide students towards positive behaviors and know how to de-escalate situations that are heated or out of control. In addition, schools and the district must have a variety of ways to intervene to help change negative, learned behaviors. The goal of any discipline work is to help the student change a negative behavior, one that is getting in the way of his/her/their success, into one that supports his/her/their growth, development and success. We do this through the skillful application of strategies rooted in behavioral science.

1. Behavioral Intervention Practices

a. **Site level practices:** The five high schools in FUHSD utilize the full range of behavioral best practice interventions designed to keep students in classrooms. Teachers, paraeducators and administrators participate in trainings throughout the year designed to strengthen their skills in this area. Additionally, all students and families in the district have access to the School Linked Coordinator who can help them access support for a wide range of issues that may be affecting school performance. One support that has been helpful since the onset of the pandemic has been our contract with CareSolace, a care concierge service that connects students or family members with outside therapists. Between multiple therapists on each school site, the SLS Coordinator and Care Solace, all members of the FUHSD Community are guaranteed direct, timely access to trained professional mental health support both on and off campus.

When a student needs a more significant level of intervention, all schools have a wide array of options available to them, including but not limited to: Student Assistance Teams, access and referrals to School Based Therapists, support from trained Behaviorists and School Psychologists, student/parent conferences with various targeted school teams (guidance/attendance etc), outside counseling referrals, administrator detentions that utilize informative/restorative consequences and learning, school-based information sessions on key-topics such as vaping, bullying, sexual harassment etc.

b. **District level practices:** Subsequent or more severe behavioral issues can result in a referral to a district intervention. These interventions are used in lieu of suspension or in addition to other discipline and are designed to provide opportunities for students to gain the new information and opportunities for reflection required to make better decisions.

- i. **FUHSD Saturday School:** A counseling-based Saturday School. A limited number of students (18) 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 bring classwork/homework to do while in Saturday School and can access the teacher and paraeducator for support while there. They also work with the counselor to complete a 'Student Success Plan' that addresses why they were assigned to Saturday School and makes a plan for 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 18 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. **Botvin Life Skills:** A 9-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. Also focuses on building positive life-skills for students who are exhibiting negative social-behavior. Students are assigned as an alternative to suspension or expulsion or as part of the rehabilitation plan.
- iv. **Short Term Intensive Behavioral Support (STIBS):** Intensive, short-term counseling for students and family members designed to address specific issues within the home and school settings.
- v. **Peer Recovery Specialist:** New in Spring 2024, students at several of our high school who are interested in more intensive drug support can be referred to a Peer Recovery Support Specialist for support and outside referral. To be rolled out at all 5 high schools in fall 2024.
- vi. Ongoing parent presentations on a variety of topics

2. Explanation of practices and how they relate to any disproportionate representation of minority students

Expulsions have been steadily decreasing in FUHSD over the past several years with 9 expulsions in 21-22, 4 expulsions in 22-23 and 1 expulsion as of May 1, 2024. This decrease is due to a number of factors including increased opportunities for teachers to receive training in the mental, behavioral and social-emotional health of our students. Additionally, all student-facing administrators and key staff receive ongoing training in the above areas as well as Safety-Care which provides a high level of behavioral intervention training with a focus on de-escalation. All District Staff have an opportunity

to participate in a variety of professional development sessions based on equity beliefs and practices and integrating all students into the school community. All five high schools bring speakers and trainers to students and staff on topics of equity and inclusion and student groups focus on activities in these areas as well. While this continues to be a growth area for our schools and communities, the decrease in expulsions are evidence of the importance of continuing these efforts.

3. Educational Services for expelled students

When a student is recommended for expulsion, there are several potential options for the Board of Trustees to consider in terms of outcome and Superintendent's Designee to consider in terms of placement. They are:

- **a.** Expulsion, suspended enforcement, 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, Education Code 48660: The FUHSD Community School.
 - i. The FUHSD Community School is a full-service, full-day educational placement for expelled students, students returning from juvenile court schools and other disciplinary placements. This is the placement for the vast majority of students in any of the above situations. The Community School has two full-time teachers, several part-time teachers, a behavior-trained paraeducator, a counselor, a therapist, a behavior specialist, a school psychologist, an assistant principal, and other school staff assigned to the school.
 - **ii.** Expulsion with subsequent transfer to another district: FUHSD works with Santa Clara Unified School District on a case by case basis for placement in their Community School.
- **d.** Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.

Students in the FUHSD Community School have access to 7 periods of classes including grade appropriate, A-G English, Math, Science and History. They also take two electives and a PE course daily. The method of instruction is a combination of direct instruction and monitored online classwork. Students participate in art, SEL curriculum, life-skills, and college/career planning. They take field trips and have an opportunity to hear from speakers on a variety of subjects.

Students in the Santa Clara Community School and Santa Clara County Office of Education Community School (Sunol) have similar educational options.

When a student who is placed in the FUHSD Community School fails to meet the terms and conditions of their rehabilitation plan or who poses a danger to other district students, the district coordinator works with Santa Clara Unified or the SCCOE Director to secure a place in one of the other two community schools listed above. Once the student is placed, the FUHSD Director stays in close contact with the new school, the student and the family to make sure that the student is making progress and to plan for his/her/their eventual return to the district.

(a. Identification of 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. b. Articulation and coordination between Fremont Union High School District and Santa Clara County Office of Education in providing educational placements for expelled pupils.)

4. Gaps in educational services to expelled students/ Implementation of strategies to fill the gaps.

- a. Offering AP classes and other high level content is a challenge: In the FUHSD Community School, every effort is made to help students improve their transcripts and grades. In some situations, students were enrolled in high level courses at the time of expulsion. We want them to be able to continue taking and succeeding in those classes while in Community School. It can be a challenge to find an appropriate online course and also to find an instructor to support the student if they need help. / We have managed to be successful in the past due to an ever-growing number of online class providers and an increasing number of online tutorial services. In addition, we have been able to tap district teachers to provide support on a timecard when needed.
- b. FUHSD is in the northern part of the county. Sunol Community School and other county resources are in the more southern part of the county which makes it hard for FUHSD families to access./ We have found moderate success by only sending a few students to County programs. It's just too hard for other students to get there.

5. Return from expulsion:

When a student has completed the terms of expulsion they are re-admitted by the Board of Trustees. After this, they and their parents have an appointment with the FUHSD Placement Advisory Committee which is made of an administrator from each of the 5 high schools, a therapist, a school counselor as well as several other key staff. At this meeting, the student is given a chance to reflect on what they have learned and what they

will do differently in the future. They are also asked which comprehensive high school they would like to attend for the following semester. Once the school has been determined, they are introduced to their new assistant principal. The assistant principal sets up a meeting with the student, the parent, the school counselor and possibly another staff member at the school site for a tour and creation of a schedule. Either the counselor or the assistant principal will check in with this student throughout the first semester. Additionally, the counselor, therapist and teachers at the Community School prepare some 'send off information' for the new school staff to better understand their new student. This helps ease the transition of the Community School student into their new school. Expelled students who do not attend the FUHSD Community School go through a similar process.

6. FUHSD Board Policies that are specific to expelled youth.

Regulation 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 01/20/2004 | Last Revised Date: 02/26/2019 | Last Reviewed Date: 02/26/2019

Status: ADOPTED

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)

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:

- 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 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))
- 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(1))
- 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))

- 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)

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)

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)

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)
 - 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)

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).

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.
 - 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 he/she 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 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))

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:

- 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

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)

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

Policy 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 01/20/2004 | Last Revised Date: 02/26/2019 | Last Reviewed Date: 02/26/2019

Status: ADOPTED

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 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
- 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 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)

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.

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

- 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.

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

Original Adopted Date: 09/20/2019 | Last Reviewed Date: 09/20/2019

Status: ADOPTED

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.

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.
- 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.

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)

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))
- 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))

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)

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)

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.

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)

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. define	Committing or attempting to commit a sexual assault or committing a sexual battery as d in Education Code 48900(n)
5.	Causing serious physical injury to another person, except in self-defense
6. studen	Possessing any knife, explosive or other dangerous object of no reasonable use to the t
	Unlawfully possessing any controlled substance, as listed in Chapter 2 (commencing with n 11053) of Division 10 of the Health and Safety Code, except for the first offense for sing 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.
Enroll	ment During the Term of Expulsion
or (c),	ident has been expelled for an act other than those specified in Education Code 48915(a) the parent/guardian shall, upon enrollment, inform the receiving district of the student's with the previous district. (Education Code 48915.1)
admitt determ employ	ent expelled for acts other than those specified in Education Code 48915 (a) or (c) may be ed or conditionally admitted during the term of expulsion when the Board of Trustees times at a hearing that the student does not pose a potential danger to district students or yees. The student shall be admitted provided that, subsequent to the expulsion, he/she 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.

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.

Policy FREMONT UNION HIGH SCHOOL DISTRICT

adopted: January 20, 2004 Sunnyvale, California

7. Minutes from the May 7 , 2024, Board meeting approval of the FUHSD Expulsion Plan for 2024-2027:

13. Pupil Personnel - No Agenda Items

14. Consent Agenda

RESULT: ADOPTED [UNANIMOUS]

MOVER: Stanley Kou, Clerk SECONDER: Rosa Kim, Trustee

AYES: Kim, Kou, Moe, Nakano-Matsumoto, Sinks

14.1. Approval and Ratification of the Personnel Report Actions dated May 7, 2024

- 14.2. Approval of Purchase Orders from April 18, 2024 Through May 1, 2024 Regarding Proposed Expenditures or Expenditure of Budgeted Funds
- 14.3. Acceptance of Donation as Specified and Sending Appropriate Letter of Appreciation
- 14.4. Approval of Informed K12 Agreement for 2024-25
- 14.5. Approval of Memorandum of Understanding (MOU) with Rebekah Children's Services for the Period July 1, 2024 to June 30, 2025
- 14.6. Approval of Agreement for Professional Services with Enrollment Projection Consultants for the Period July 1, 2024, through June 30, 2025
- 14.7. Approval of Three Year Expulsion Plan
- 14.8. Approval of MOU between the Santa Clara County Office of Education's Regional Technology Center and the Governing Board of the Fremont Union High School District for Data Processing and Technology Services for 2024-2025
- 14.9. Ratification of the School-Based Wellness Center Grant Program Grant Agreement between FUHSD and Valley Health Foundation

15. Teaching and Learning

- 15.1. Professional Development Update
- 16. Bond and Facilities No Agenda Items
- 17. Bond and Facilities Consent Agenda



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

2024-2027

May 2024

INTRODUCTION

THE LOS GATOS -SARATOGA UNION HIGH SCHOOL DISTRICT

ALTERNATIVE EDUCATIONAL SETTING

PLAN FOR EXPELLED YOUTH

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 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.

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 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. The 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 the Santa Clara County Office of Education operate on a chargeback system to our participating districts. It is difficult to anticipate the needs 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.



Mountain View Los Altos High School District 2024-2027

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 6, 2024

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, after school or lunch detention is assigned to students as part of the progressive discipline steps.
- f. Assistant Principals 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, 10th 11th graders may be recommended to transfer to Alta Vista High Schoo 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. DART 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 High School, 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. 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.

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(cf. <u>5131</u> - Conduct)
(cf. <u>5131.1</u> - Bus Conduct)
(cf. <u>5131.2</u> - Bullying)
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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 <u>48900(s)</u>)

- 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

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(cf. <u>5112.5</u> - Open/Closed Campus)
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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. <u>0410</u> - 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)

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(cf. <u>5144</u> - Discipline)
(cf. <u>6142.4</u> - Service Learning/Community Service Classes)
(cf. <u>6164.2</u> - Guidance/Counseling Services)
(cf. <u>6164.5</u> - Student Success Teams)
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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.

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(cf. <u>5113</u> - Absences and Excuses)
(cf. <u>5113.1</u> - Chronic Absence and Truancy)
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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

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(cf. <u>5131.7</u> - Weapons and Dangerous Instruments)
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- 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 <u>261</u>, <u>266c</u>, <u>286</u>, <u>288</u>, <u>288a</u>, or 289, or committing a sexual battery as defined in Penal Code <u>243.4</u>
- 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. <u>5144.2</u> - 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 <u>48900.8</u> and <u>48916.1</u>, 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. <u>0460</u> - 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
25146 Closed essions (resording evenesions) 25201

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

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ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

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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

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Policy MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

adopted: January 14, 2019 Mountain View, California Mountain View-Los Altos Union HSD | 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 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 $\frac{48910}{1}$

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

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(cf. <u>5144</u> - Discipline)
(cf. <u>5145.6</u> - Parental Notifications)
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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:

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(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))
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- 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 <u>48900(b)</u>)

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(cf. <u>5131</u> - Conduct)
(cf. <u>5131.7</u> - Weapons and Dangerous Instruments)
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- 3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code <u>11053-11058</u>, alcoholic beverage, or intoxicant of any kind (Education Code <u>48900(c)</u>)
- (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 <u>48900(f)</u>)
- 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 <u>48900(h)</u>)
- (cf. <u>5131.62</u> 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(I))
- 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 <u>48900(m)</u>)

- 13. Committed or attempted to commit a sexual assault as defined in Penal Code <u>261</u>, <u>266c</u>, <u>286</u>, <u>288</u>, <u>288a</u>, or 289, or committed a sexual battery as defined in Penal Code <u>243.4</u> (Education Code <u>48900(n)</u>)
- 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 <u>48900(o)</u>)

- 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 <u>48900(q)</u>)

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 <u>48900.2</u>, <u>48900.3</u>, 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 <u>48900(r))</u>

- 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))

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(cf. <u>1114</u> - District-Sponsored Social Media)
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(cf. 5131.2 - Bullying)

(cf. <u>6163.4</u> - 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))

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(cf. <u>5131.4</u> - Student Disturbances)
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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)

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(cf. <u>5145.7</u> - Sexual Harassment)
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2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code <u>233</u> (Education Code <u>48900.3</u>)

Hate violence means any act punishable under Penal Code <u>422.6</u>, <u>422.7</u>, 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 <u>233</u>; Penal Code <u>422.55</u>)

(cf. <u>5145.9</u> - 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. <u>5145.3</u> - 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 <u>48900</u> and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code <u>48910</u>)

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 <u>48910</u>)

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. <u>5125</u> - 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 <u>48911</u>)

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. <u>6184</u> - Continuation Education)

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

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 <u>48914</u>)

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 <u>48915</u>. (Education Code <u>48912.5)</u>

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 <u>48925</u>. 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 <u>48918(a)</u>)

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

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 <u>48918.5)</u>

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 <u>48918.1</u>)

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 <u>48918.1</u>)

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 <u>48918(g)</u>)
- 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 <u>1985-1985.2</u> and enforced in accordance with Government Code <u>11455.20</u>. (Education Code <u>48918(i)</u>)

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 <u>868.5</u>.
- 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 <u>48918</u>)

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 <u>48917</u>, <u>48918</u>)

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 <u>48916</u>)

- 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 <u>48916.5</u>)

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 <u>48918</u>)
- 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 <u>48917</u>)
- 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 <u>48917</u>)
- 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 <u>48919</u>)

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 <u>48900(</u>c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code <u>48902)</u>

Placement During Expulsion

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

- 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. <u>6185</u> - 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 <u>48916</u>)
- 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 <u>48916</u>)

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 <u>48645.5</u>)

Maintenance of Records

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

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. <u>5119</u> - Students Expelled from Other Districts)

Regulation MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

approved: January 14, 2019 Mountain View, California

Mountain View-Los Altos Union HSD | 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. <u>5144.1</u> - 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. <u>3541.2</u> - 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. <u>6158</u> - 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 <u>48917</u>)

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: $(20 \text{ USC } \underline{1415(k)}(5); 34 \text{ CFR} \underline{300.534})$

- 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 Three Year Expulsion Plan

Between
Gilroy Unified School District
And
Santa Clara County Office of Education

For the Implementation of California Education Code 48926

Dr. Anisha Munshi, Superintendent

Anna Pulido, Director of Student Services

Adelina Cerveró, District Expulsion Coordinator

Gilroy Unified School District Triennial Expulsion Plan for 2024-2027

California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of school districts within the county, to develop a plan for providing educational services to all expelled pupils in that county.

The following plan describes the policies, procedures, and practices of Gilroy Unified School District to ensure equitable intervention practices and educational options are implemented before, during, and after an expulsion for the affected pupil.

The information in this document reflects a triennial update of the 2021 plan, and is formatted to respond to the requirements and recommendations put forth by the California Department of Education. It was approved by the Gilroy Unified School District Board of Trustees on May 16, 2024.

Plan Goals:

- 1. Minimize the number of suspensions and expulsions
- 2. Support students returning from expulsion
- 3. Closing the achievement gap of expelled pupils
- 4. Increasing the graduation rate and decreasing the dropout rate of expelled students

Plan components:

- 1. Behavioral Intervention Practices
- 2. Explanation of practices and how they relate to any disproportionate representation of minority students
- 3. Educational Services for Expelled Students
- 4. Explanation of the implementation of the strategies outlined as solutions for each of the gaps in educational services to expelled pupils identified in the plan.
- 5. Identification of 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.
- 6. Articulation and coordination between Gilroy Unified School Districts and Santa Clara County Office of Education in providing educational placements for expelled pupils.
- 7. BP/AR outlining the district expulsion process
- 8. Minutes from the May 16, 2024, Board meeting approval of the GUSD Three Year Expulsion Plan for 2024-2027

Gilroy Unified School District Triennial Expulsion Plan for 2024-2027

Gilroy Unified School District is located in the southernmost region of Santa Clara County. Although the student population has grown from 8,448 in 1993-1994 to 10,352 in 2023-2024 TK - 12 students, the District has been experiencing declining enrollment in recent years.

The two major ethnic student groups are Hispanic (71%) and White (13%). Our students' major assigned gender groups are 52% male and 48% female, with .1% declared non-binary. Our language proficiency groups are majoritarily EO with 54%, EL with 26% and RFEP with 16%. Our Students With IEPs make up 15% of our school population.

The District consists of seven elementary schools, three middle schools, two comprehensive high schools, one continuation high school, one college prep academy, and one adult education program. We also offer preschool at three sites in the District.

1. Behavioral Intervention Practices

Gilroy Unified School District follows an MTSS model. The district and the sites have worked on the planning and implementation of proactive supports in the areas of academics, behavior, social-emotional state, and attendance. In supporting the whole person, behavior supports are implemented following the PBIS model. Social-emotional supports are implemented by using new curriculum and by training our administration and our certificated and classified staff on restorative practices, social emotional learning, and equity lens. We have also increased the number of social workers and counselors on all campuses. We currently have Wellness Centers operating at one of our elementary schools and at our three middle schools.

Using the PBIS model, schools create proactive behavior plans that foster a positive school climate before any undesired behaviors take place. All our sites have revised and updated their behavior expectations charts and rewritten their discipline matrices. In doing so, all sites are also implementing new alternatives to suspension, such as routing the student for social-emotional supports, implementing restorative interventions, and offering Suite 360 lessons and other restorative options.

Concurrently, our schools also work with two Santa Clara County initiatives, School Linked Services and Prevention and Early Intervention, in conjunction with numerous community based organizations that offer mental health services for individual students, for groups, and for families, on and off campus. Our three SLS Community Liaisons serve as the point persons for support referrals, and they manage the enrollment process or referral for student and family services beyond mental health, such as food, clothing, housing, or healthcare.

The district is also an executive team and a technical team member of the South County Youth Task Force. This collaborative partnership has the goal of offering community-based and culturally-responsive prevention and intervention practices for our youth so they are part of opportunities and resources tailored to them. We identify high-risk pupils and connect them with a higher level of intervention than what is available through the standard school program. Additionally, the team analyzes trends in the community and identifies and establishes positive interventions instead of or in addition to disciplinary or legal action.

The district office and the sites have worked together to strengthen the supports offered to all students, with particular emphasis on groups who face most hurdles and who may be over-represented in suspensions and expulsions. Our target group is of students with IEPs, so we are focusing on inclusion and on equity, as well as on intensifying proactive support. This is being accomplished through an inclusion initiative to enroll students with IEPs in courses they may not have been able to access before and to increase their participation in campus life as well. Additionally, our school social workers and therapists from community based organizations are more intentional in identifying and offering individual and group counseling to them.

In 2022-2023, Gilroy Unified School District also housed 203 McKinney-Vento pupils and 29 foster pupils, and 82 migrant pupils. The district has a team of certificated and classified staff to provide direct services to our students who are unhoused, in the foster system, or part of the migrant population. They work directly with the families to provide academic support, counseling, and family resources as needed.

2. Explanation of practices and how they relate to any disproportionate representation of minority students

Our expulsion data shows that some underserved student groups are over-represented, such as Hispanic students (83% of our expulsions and 71% of our population in 2022-2023), students with IEPs (28% of our expulsions and 15% of our population in 2022-2023) and middle school students (66% of our expulsions in 2022-2023).

Gilroy Unified School District has established a number of programs and supports to provide for the social, emotional, mental-health, and behavioral well-being of our pupils, with particular emphasis on these groups.

Wellness centers are now operating at our three middle schools. The site staff works with the wellness team and with our School Linked Services liaisons. There is a process in place to identify and refer students who need individual or group counseling or therapy targeted to

address specific areas of concern. Families in need of resources are also quickly referred to the appropriate supports.

The district provides opportunity for all staff to understand and comply with federal and state laws to prevent any discrimination, including that based on race, color, national origin, gender, sexual orientation, disability, or place of origin. In 2023-2024, the district and all school sites started a partnership with North Star to work with district staff, site leadership, staff at each school, and students on equity beliefs and practices. The organization works with each of these groups on confronting racial discrimination, inclusion of students with disabilities, and positive proactive approaches to supporting students with disabilities, using punitive discipline only when other means are not feasible.

The school district continues to offer professional development on restorative practices and restorative justice for in and out of the classroom school staff and for district staff. Using the IIRP model, we currently have trained all our administration, campus supervisors, school social workers, attendance and office staff, and paraprofessionals. Many of our teachers continue to be trained by our four trained trainers and by our trainers in the community. The schools are establishing discipline and restorative practices that foster support for the student with the goal of separating the youth from the action, and that protect both the student who causes harm and the student harmed. The goal is to create a sense of community again, that is safe, inclusive, supportive, and fair.

All our elementaries now count with a Community Liaison to establish stronger relationships with families and to help students feel linked and welcome. They are trained in trauma informed practices, so staff is aware about the stressors that our families and students suffer. We do empathy work in order to establish a welcoming sense of belonging and community on our campuses. They are also trained in restorative practices.

3. Educational Services for Expelled Students

a. Services currently available

In the instance of an expulsion, Gilroy Unified School District offers three different types of placement:

- Students under a full expulsion order are placed at one of two Santa Clara County Office of Education Alternative Education schools, under Education Code 1981. South County Alternative Education School is located in Gilroy and Sunol Alternative Education School is located in San Jose.
- Students under a suspended expulsion order may be placed at the same school they were expelled from, under Education Code 48917 (a)

- Students under a suspended expulsion order may be placed at another one of the GUSD sites, under Education Code 48917 (a)

Occasionally, a student may require an alternative placement at a non public school, independent studies program, or other alternate program.

When a student is expelled, they receive referrals to counseling in areas identified as a need. Families may also be referred to counseling or provided resources that are deemed necessary. Their school team meets with them to provide safe adults, on site resources and strategies, and behavior alternatives tailored to addressing any trauma, social-emotional support, or academic help that may arise, in addition to addressing the specific behavior that triggered the expulsion. Additionally, they remain in contact with the district expulsion coordinator in case their circumstances or needs change.

b. Strategies for Improvement

The possible placements of expelled pupils from Gilroy Unified School District are limited. There is only one County Office of Education Alternative School in our community. The County has one more school that can be provided, but it is miles away and no transportation is offered, which poses a hardship for some families.

The Santa Clara County Office of Education offers limited services for students with IEPs requiring intensive accommodations, particularly those with an ED disability. Gilroy Unified School District is attempting to expand proactive strategies and types of intervention and placement.

One gap in the educational services for expelled students is the transition time while the student is going through the expulsion process. While students with IEPs continue to have services and an educator to help them from the time they are suspended until the expulsion is final, general education students don't have this opportunity.

4. Explanation of the implementation of the strategies outlined as solutions for each of the gaps in educational services to expelled pupils identified in the plan.

Our placement options are limited. Gilroy Unified School district has expanded the criteria for suspended expulsion, in order to consider more openly the feasibility of using our campuses as an alternative to the SCCOE site. There is only one Alternative Education school in our community, and a second one is 32 miles away. We only place students at this distant school occasionally, for instance when there are safety concerns, when the family chooses that site due to working or living in that area, or for personal reasons. Gilroy Unified School District offers bus passes to students who live in our attendance area and attend there.

Administrators and support staff are prioritizing the identification of students with challenges before serious discipline is required. Additionally, there is a more mainstreamed process for the referral of students to on-campus social emotional support and offering further opportunities to choose alternative behaviors when at-risk behaviors start manifesting. Sites are implementing additional supports for underserved students who are overrepresented in expulsions. As a result, our expulsion of students with IEPs in 2023-2024 is so far 3, as compared to 10 during each of the last two school years.

The expulsion process from the time of the incident causing the suspension to the school board decision is lengthy. The student may spend weeks at home. Often, these are students without the tools to work independently, which causes scores to decline. Gilroy Unified School District offers assignments in hard copy, which can be picked up and submitted in the school office, and work online via Google Classroom. The district continues to work with administrators to establish systems of communication that provide for opportunities for suspended students to get additional academic assistance and opportunities to earn credit. Special education students in this situation continue to receive the services delineated in their IEPs.

5. Identification of 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.

On rare occasions, an expelled student does not participate in the alternative education program. Placement of students considered "program failures" is difficult, as they have exhausted alternatives. Students who are "program failures" in Alternative Education are those who received a full expulsion, hence who are also ineligible for enrollment at comprehensive schools. Gilroy Unified School District meets with the family and the student to explain the seriousness of the situation and to review the rehabilitation plan. The team also interviews the student to see what the hurdle to attendance and participation is. Commitment to success is emphasized, and alternative placements may be considered, such as the Alternative Education site that is in north county -Sunol Alternative Education School-, an alternative education independent study program, or others. The expulsion coordinator checks in with the student and family regularly to monitor their progress in the alternative placement to ensure their continued engagement.

6. Articulation and coordination between Gilroy Unified School District and Santa Clara County Office of Education in providing educational placements for expelled pupils.

The Gilroy Unified School District and the Santa Clara County Office of Education have established systems to mainstream the placement of students and their reinstatement.

Within two school days of the date of the school board vote, an enrollment packet is sent to Alternative Education and the coordinator schedules an intake meeting with the family, generally within the week. In the case of a suspended expulsion, the district expulsion team facilitates the transfer and transition of the student within the site or to their new site.

When a student is in special education, the teams coordinate and make sure that the services in the IEP can be provided. AB167 and other programs are discussed, as well as specific situations and individualized supports.

The SCCOE alternative education team and the GUSD expulsion staff also meet regularly to update one another on progress, services, and needs of each student enrolled. Monthly, the expulsion coordinator also visits the alternative site and meets with the principal and counselors, as well as with expelled students.

Two weeks before the end of each semester, the district expulsion team and the alternative education team meet to review each case and determine what students are eligible for reinstatement. Their application is facilitated in communication with the students and their families.

Reinstated students are able to start the next semester from the first day of attendance. The expulsion staff is able to coordinate supports for a successful transition to their comprehensive sites.

7. BP/AR outlining the district expulsion process

AR 5144.1 Suspension and Expulsion Due Process - Adopted 06/11/2020

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)

- 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(1))
- 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 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)

BP 5144.1 Suspension and Expulsion Due Process - Adopted 06/11/2020

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 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.

BR 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.

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 engaged in behavior that violated the district's code of student conduct may assert any of the protections under IDEA 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); 34 CFR 300.534)

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 300.534)

- 1. The parent/guardian has expressed concern to district supervisory or administrative personnel in writing, 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 34 CFR 300.300-300.311.
- 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 pursuant to 34 CFR 300.300-300.311 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 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)

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.

The district 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 any 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 the removal has been determined to be a change of placement as specified in items #1-2 above, the student's IEP team shall determine the appropriate educational services. (34 CFR 300.530)

Services During Suspension

Any student suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed as provided in 34 CFR 300.101(a), so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

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 his/her parent/guardian, provided that transportation is specified in his/her IEP. (Education Code 48915.5)

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 parents/guardians of the student 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 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 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 parents/guardians of the student 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)
- 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 a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the student's 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 conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment 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 behavior 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 district 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)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: 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. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The student shall receive services to the extent necessary 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 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)

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 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 used for all students. Upon readmission, an IEP team meeting shall be convened.

Suspension of Expulsion

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

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)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent 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)

8. Minutes from the May 16, 2024, Board meeting approval of the GUSD Expulsion Plan for 2024-2027



Board of Education Regular Meeting 05/16/2024 07:00 PM Closed Session 5:30PM | Regular Session 7:00 PM Gilroy Unified School District Board Room 7810 Arroyo Circle, Gilroy, CA 95020

MEETING MINUTES

MEETING LOCATION: GILROY UNIFIED SCHOOL DISTRICT BOARD ROOM- 7810 ARROYO CIRCLE, GILROY, CA 95020 THE MAY 16, 2024 BOARD MEETING WILL BE CONDUCTED IN PERSON. For those unable to attend the meeting in person, the Board Meeting will also be livestreamed on

the GUSDYouTube page: https://www.youtube.com/channel/UCSUnIA8mld7GmvelGQKv49w

PUBLIC COMMENTS

If you wish to make public comments on items within the jurisdiction of the Board of Trustees, please submit a speaker card to the Clerk. In accordance with Board Bylaw 9323, individual remarks will be limited to 3 minutes each, unless otherwise stipulated. The maximum time designated for public comments on this agenda will be 45 minutes. Comments on items listed as a Public Hearing on the Agenda should be held until the hearing is opened. If the subject is an item on the Agenda, the speaker will be called when that item is heard. The Board of Trustees are prohibited by law from taking action on matters discussed that are not on the Agenda, and no adverse conclusion should be drawn by the Board of Trustees not responding to public comments at this time.

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 student served; and by continually improving the quality of teaching and learning.

Attendees

Voting Members

James Pace, Board President

8. Minutes from the May 16, 2024, Board meeting approval of the GUSD Expulsion Plan for 2024-2027

Tuyen Fiack, Board Vice President Melissa Aguirre, Board Member Mark Good, Board Member Gabriela Kim, Board Member Michelle Nelson, Board Member Linda Piceno, Board Member

- 1. CALL TO ORDER
- 2. CLOSED SESSION (5:30 PM)

[...]

3. REGULAR SESSION (7:00 PM)

[...]

4. STUDENT BOARD REPRESENTATIVE - Alexandra Guerrero, Gilroy High School (Information Item)

[...]

5. SUPERINTENDENT'S REPORT - Dr. Anisha Munshi

[...]

6. CONSENT AGENDA: Superintendent's Office & Human Resources (Action Item)

[...]

7. CONSENT AGENDA: Educational Services (Action Item)

[...]

8. CONSENT AGENDA: Student Services (Action Item)

[...]

k. Gilroy Unified School District Three-Year Expulsion Plan for the 2024-2027 School Years

Trustee Michelle Nelson asked to discuss this item: Asked for a couple of changes and to add something to it.

Pg 6 Section "Strategies for Improvement" states that general education student don't have this opportunity [to have a teacher offer services during suspension, like students with IEPs do], although they have google classroom. The collective bargaining agreement addresses this in section article 2.2.9, where it is determined that teachers are obligated to provide students in the process of expulsion with work. She said she will send it to include that this is part of the contract. There are three paragraphs in the collective bargaining agreement that address this.

Motion made by: Tuyen Fiack

8. Minutes from the May 16, 2024, Board meeting approval of the GUSD Expulsion Plan for 2024-

Motion seconded by: Mark Good Voting: James Pace - Yes Tuyen Fiack - Yes Melissa Aguirre - Yes Mark Good - Yes Gabriela Kim - Yes

Michelle Nelson - No

Linda Piceno - Yes

I. ACTION/INFORMATION ITEMS

[...]

m. ACTION/INFORMATION ITEM REGARDING MAINTENANCE/FACILITIES

[...]

n. BOARD MEMBER REPORTS

[...]

- o. UPCOMING AND NEW/REFERRAL AGENDA ITEMS
- p. ANNOUNCEMENTS

[...]

q. ADJOURNMENT

8:26 pm

Secretary

Morgan Hill Unified School District

Three Year Expulsion Plan
Between the
Morgan Hill Unified District
and

The Santa Clara County Office of Education 2024 - 2027

For the implementation of Education Code 48916.1

Dr. Carmen Garcia, Superintendent

Dr. Diana Jimenéz, Assistant Superintendent of Educational Services Division

Jessie Swift,

Director of Student Services and Enrollment

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 2022-2023 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 has opened 4 comprehensive Wellness Centers at the middle and high schools, and Wellness spaces at the elementary sites. Comprehensive Wellness Centers are staffed with mental health therapists that provide a calm space, one-on-one therapy, group counseling, and a variety of other supports to students and families. In addition to support students long term and a higher tier of support 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 group counseling support. Also, we have partnered with the South County Youth Task Force along with a variety of other community based organizations and are able to offer a variety of services including restorative justice support/training, mentorship, wrap services and parent support.

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 TK - 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, our wellness team have developed a comprehensive, a trauma-informed practices and crisis response platform and practices that provides wrap around supports and immediate crisis response focused around suicide prevention, deescalation, 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

Since the pandemic and the years following 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 an in-house case manager that provides direct support to the student and family. In addition, we have created a transition protocol for students who are being readmitted into the district. The case manager works with students, the expelled youth programs and the CBOs as a bridge to ensure that the student is able to have access to all the support they need, as well as a connection to MHUSD. In addition, the district and the CBO partners continue 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. The MHUSD case manager meets with the youth multiple times a year to review the rehabilitation plan, and meet with the program administrators to determine if there are any needs or supports that can be offered to the youth through MHUSD.

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.

We continue to provide VTA transportation passes and work with families, however if a student is unable to ride the VTA, transportation is a barrier. This is more of an issue for our younger students, and we continue to explore other transportation options.

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, and went up again this year and is expected to double in the next three years. The number of alternative education seats that the District reserves annually has fluctuated between 5-15.

Strategy: 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. In addition, students are often not completing their rehabilitation plans in the allotted time and remain in the County programs. We hope that with the increase in funding the County will be more proactive in their truancy, support for students mental health, and increase their community based organization partnerships to provide the necessary interventions to support you in their program.

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 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.

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(cf. <u>5131</u> - Conduct)
(cf. <u>5131.1</u> - Bus Conduct)
(cf. <u>5131.2</u> - Bullying)
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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. <u>5112.5</u> - 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. <u>0410</u> - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code <u>48900</u>(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 <u>48900.5</u>, <u>48900.6</u>)

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(cf. 5138 - Conflict Resolution/Peer Mediation)
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(cf. <u>5144</u> - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. <u>6164.2</u> - 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. <u>5113</u> - Absences and Excuses)

(cf. <u>5113.1</u> - 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 <u>48900</u> and <u>48900.2</u>, 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 <u>48900.5</u>)
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 <u>11053-11058</u>
- 5. Committing or attempting to commit a sexual assault as defined in Penal Code <u>261</u>, <u>266c</u>, <u>286</u>, <u>288</u>, <u>288a</u>, or 289, or committing a sexual battery as defined in Penal Code <u>243.4</u>
- 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 <u>48917</u>) 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 <u>48911</u>, <u>48915</u>, <u>48915.5</u>, <u>48918</u>) (cf. 5119 - Students Expelled from Other Districts)

(cf. <u>5144.2</u> - 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 <u>48900.8</u> and <u>48916.1</u>, 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. <u>0460</u> - 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 <u>48910</u>

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

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 <u>35291</u>, <u>48900.1</u>, <u>48980</u>)

(cf. <u>5144</u> - Discipline)

(cf. <u>5145.6</u> - 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. <u>5144.2</u> - 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. <u>5131.7</u> 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 <u>11053-11058</u>, alcoholic beverage, or intoxicant of any kind (Education Code <u>48900(c)</u>)
- (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 <u>11014.5</u> (Education Code <u>48900(j)</u>)
- 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 <u>48900(k)</u>) Pursuant to Education Code <u>48900(k)</u>, except as otherwise provided in Education Code <u>48910</u>, 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. <u>5131.4</u> Student Disturbances)
- 12. Knowingly received stolen school property or private property (Education Code 48900(I))
- 13. Possessed an imitation firearm (Education Code <u>48900(m)</u>) 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 <u>48900(m)</u>)
- 14. Committed or attempted to commit a sexual assault as defined in Penal Code <u>261</u>, <u>266c</u>, <u>286</u>, <u>288</u>, <u>288a</u>, or 289, or committed a sexual battery as defined in Penal Code <u>243.4</u> (Education Code <u>48900(n)</u>)

- 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 <u>48900(q)</u>)
 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 <u>48900(q)</u>)
- 18. Engaged in an act of bullying (Education Code <u>48900(r)</u>)

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 <u>48900.2</u>, <u>48900.3</u>, 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 <u>48900(r)</u>)

- 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. <u>5131.2</u> - 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 <u>212.5</u> (Education Code <u>48900.2</u>)

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 <u>233</u> (Education Code <u>48900.3</u>)

Hate violence means any act punishable under Penal Code <u>422.6</u>, <u>422.7</u>, 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 <u>233</u>; Penal Code <u>422.55</u>)

(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 <u>48900</u> and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code <u>48910</u>)

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 <u>48910</u>)

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 <u>48910</u>)

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 <u>48913</u>) 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. <u>6184</u> - 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 <u>48911</u>)
- 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 <u>48918.1</u>)

(cf. <u>6173</u> - 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 <u>48912</u>)

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. <u>9321</u> - 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 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 <u>48918</u>.

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 <u>48915.1</u>, 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 <u>48918.1</u>)

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

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 <u>48918</u>)

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 <u>48918(a)</u> 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 <u>48900</u> 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 <u>48918(h))</u>
- 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. <u>9321.1</u> - 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 <u>48916.5</u>)
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 <u>48900.8</u>)

- 2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code <u>48916</u>)
- 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 <u>48918</u>)
- 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 <u>48917</u>)
- 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 <u>48917</u>)
- 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 <u>48915.1(b)</u>. (Education Code <u>48918(j)</u>)

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 <u>48919</u>)

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 <u>48915</u>, <u>48915.01</u>)

- 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 <u>48916.1</u>)
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 <u>48916</u>)

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 <u>48900.8</u>)

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 <u>48915.1</u>) (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 <u>1400-1482</u>, 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. <u>5144.1</u> - 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. <u>6159</u> - 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. <u>3541.2</u> - 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. <u>6158</u> - 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 <u>48917</u>)

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. <u>5131.7</u> - 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: $(20 \text{ USC } \underline{1415}(k)(5); 34 \text{ CFR } \underline{300.534})$

- 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 $\underline{1414}(a)(1)(B)$ or 34 CFR $\underline{300.300}-\underline{300.311}$.
- (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
- <u>56321</u> Development or revision of individualized education program
- 56329 Independent educational assessment
- <u>56340-56347</u> 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



Three Year Expulsion Plan Between the Milpitas Unified School District

&

Santa Clara County Office of Education 2024-2027

For the implementation

of

Education Code 48916 .1

Triennial Update May 14, 2024

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 Expulsion Chair 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, 2024, 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.

Learning & Development Department

1331 East Calaveras Boulevard, Milpitas, CA 95035 Maurissa Koide, Director 408.635.2600 | extension 6006 408.635.2624 | Fax www.musd.org

May 16, 2024

Dear SCCOE,

At a meeting held on May 16, 2024, 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

Overview: Milpitas Unified School District Plan

Educational Alternatives for Expelled Students

- Current (2024-2027) Program Offerings, interventions, and administrative referrals or placements
 - a. Identify existing intervention programs
 - MTSS District Work and Vision
 - 1. District Leadership Team
 - ii. PBIS Framework
 - 1. PBIS Leadership Team
 - 2. 8 of 10 Elementary Schools implementing PBIS framework
 - iii. Character Building Programs
 - 1. 8 schools are implementing character building programs such as: PeaceBuilders, Soul Shoppe.
 - 2. Weller Elementary developed a Core Values Program that uses books to teach monthly character traits to their students.
 - iv. Restorative Practices
 - 1. The District's Code of Conduct, written in the 2021-2022 school year, employs a Restorative Practices lens
 - All school sites have had their Assistant Principals trained along with some campus supervisors, teachers, and classified staff
 - 3. Restorative Practices circles are a District core culture and climate practice
 - 4. There is a Lead Teacher Restorative Practices cohort that began in 2023-2024 school year
 - 5. Three sites have had schoolwide Restorative Practices training; two planning schoolwide trainings for the 24-25 school year
 - v. Social Emotional Learning Lessons
 - 1. Mindfulness Practices
 - 2. Eleven sites are employing SEL lessons.
 - 3. Two elementary sites are using a toolbox to highlight the SEL skills students can employ when facing a challenge.
 - a. Rose Elementary Tiger Tools
 - b. Zanker Elementary Zanker Toolkit
 - vi. Trauma Informed Training
 - 1. Kognitio Training (Districtwide)
 - b. Summary of services. MUSD continues to offer the interventions listed above. Each, when done with fidelity, has been met with success in preventing students from moving toward expulsion. Restorative Practices, in particular, is a current practice that is seeing success in teachers/educators understanding of the root causes for student behaviors and disengagement. School sites and educators are seeing a positive change in their communities and culture when they focus on building relationships, a Tier 1 Restorative Practices Approach. This year District-led professional development was provided on: Social Emotional Learning, escalation and de-escalation cycle of behavior, regulation strategies, and Tier 1 Restorative Practices for Educators from the International Institute of Restorative Practices (IIRP). These trainings are

supporting mindset shifts for behavior response and will continue to support responding to behaviors proactively instead of reactively.

- 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. (2021-2023)
 - 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.
 - The Expulsion Chair attends the intake meeting for a warm hand off and ro share transportation options.
 - ii. Our social worker is also consulted when appropriate to support families with community transportation options.
 - b. The District recognizes that specific subgroups have been suspended and expelled more often than other student subgroups.
 - i. The District's strategy was to write a Code of Conduct through a Restorative Practices lens and promote these 4 culture and climate practices:
 - 1. Schoolwide Classroom Expectations: Elementary & Secondary
 - 2. <u>Circles</u> (community building & restorative)
 - 3. Positive Office Referrals/Shout Outs (Secondary Level)
 - 4. <u>Behavior Response Push-In Model</u> (as opposed to exclusionary practices)

This plan was written in the 2021-2022 school year and the initial roll out began in 2022-2023.

- 4. Existing gaps and strategies in our current plan and strategies outlined for filling those service gaps. (2024-2027)
 - a. Options for elementary expelled students are very limited as the SCCOE program only serves grades 6-12.
 - The first option is to find one alternative placement at one of the 10 elementary schools in our District.

- ii. The second strategy to address this gap is that MUSD will collaborate with neighboring districts to consider placement outside MUSD.
- b. 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.
 - i. The Expulsion Chair attended the intake meeting for a warm hand off and shared transportation options.
 - ii. Our social worker is also consulted when appropriate to support families with community transportation options.
 - iii. In 2024-2025, our District is opening a Milpitas High School Extension Campus and our Continuation School is expanding to accept 9th graders on a voluntary basis. This will provide alternative placement options as needed.
- c. The District recognizes that African-American, Latino, English Learners, Students with Disabilities, and Low SES students have been suspended & expelled more often than other student subgroups.
 - Our strategy will be to continue to expand Restorative Practices Tier 1 training for MUSD to strengthen Tier I School Climate practices.
 - ii. Another strategy relates to our instructional practices which includes adopting culturally relevant textbooks and adding deeper learning assessments that will shift teachers to employ culturally responsive instructional strategies.
 - iii. We have also shifted our Expulsion Process to include rehabilitation plans that include Tier 3 repair circles and we are exploring adding a Restorative Practices Counsel to support students who are up for expulsion.
- 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.
 - 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 or Milpitas High School's Extension Campus.
- 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 District's

- Independent Study Program, EducatEverywhere, and an Independent Study Program in the County Community School.
- b. Additionally, the District may look for 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

<u>Community Schools</u> 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 2024 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 maintain 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

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)

- 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))

- 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, 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.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

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 <u>48910</u>. 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)

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 <u>35291</u>, <u>48900.1</u>, <u>48980</u>)

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:

- 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 <u>48900(a)</u> and (t))
- 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))

- Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code <u>11053-11058</u>, alcoholic beverage, or intoxicant of any kind (Education Code <u>48900(c)</u>)
- 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))
- 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(I))
- 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 <u>48900(m)</u>)
- 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 <u>48900(p)</u>)
- 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(s) 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 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 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 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 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))

Burn page means an internet web site created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (Education Code 48900(r))

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

- Committed sexual harassment as defined in Education Code <u>212.5</u> (Education Code <u>48900.2</u>)
 - 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)
- 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)

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 acts specified in Education Code <u>48900</u> and listed listed as Items #1-19 under "Grounds for Suspension and Expulsion" above. (Education Code <u>48910</u>)

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 removed. (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 20

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)

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (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

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 away from school 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 <u>48915(c)</u>)

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 <u>48900.5</u>)

When other means of correction are implemented prior to imposing suspension upon a student, including supervised suspension, 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. (Education Code <u>48911</u>)

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 - 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, including the other means of correction that we 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 in support of the student's 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, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. 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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall be notified in writing of the suspension. (Education Code 48911)

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

- 4. In addition, the notice may state the date and time when the student may return to school.
- Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct 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, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, 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)
- 6. 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.
- c. If the student involved is a foster youth or Indian child, the Superintendent or designee shall notify the district's liaison for foster youth of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, 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)
- e. 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 <u>48915</u>. (Education Code <u>48912.5</u>)

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 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 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 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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student if an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

Superintendent or Principal 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,
 - (b) the student's possession of over-the-counter medication for use by the student for medical purposes
 - (c) medication prescribed for the student by a physician
- 4. Robbery or extortion
- Assault or battery, as defined in Penal Code <u>240</u> and <u>242</u>, 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 offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, 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 written notice of the expulsion hearing pursuant to Education Code 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. 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, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, 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
- 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 <u>48915.1</u>, 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 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.

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, Homeless Students, and Indian Children

If the student facing expulsion is a foster student or Indian child, the Superintendent or designee shall also send notice of the hearing to the foster youth's' educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar 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 calendar 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

- Closed Session: Notwithstanding Education Code <u>35145</u>, 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 <u>48918(c)</u>)
- 2. 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))

- 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 <u>48918(g)</u>)
- 4. 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 #4-6 below. (Education Code 48918(i))

- 5. 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))
- 6. 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.

- 7. 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 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 <u>868.5.</u>
 - 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.
 - 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 he/she may leave the hearing room.
 - iii. The person conducting the hearing may:
 - Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining

witness

- 2. Limit the time for taking the testimony of a complaining witness to the normal school hours, if there is no good cause to take the testimony during other hours
- Permit one of the support persons to accompany the complaining witness to the witness stand
- 8. 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, 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 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))

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:

- 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)
- 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)
- 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)
- During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code <u>48917</u>)
- 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)
- 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))
- 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

If a student is expelled from school, 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 <u>245</u>. (Education Code <u>48902</u>)

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 students 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)

- 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 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:

The Superintendent or designee shall hold a conference with the student's parent/guardian, or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

- 1. 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 an open session is received from the student's parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.
- 2. If the readmission is granted, the Superintendent or designee shall notify the student and the student's parent/guardian, by registered mail, of the Board's decision regarding readmission.
- 3. 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)

- 4. 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.
- 5. The Board shall provide written notice to the expelled student and the student's 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.

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 <u>48645.5</u>)

Maintenance of Records

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

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 <u>48918(k)</u>)

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 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 <u>1400-1482</u>, 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. <u>5144.1</u> - Suspension and Expulsion/Due Process)

Suspension or expulsion of a student with disabilities shall be in accordance with Board Policy 5144.1 - Suspension and Expulsion/Due Process and this administrative regulation.

When a student with disabilities exhibits behavior which impedes the student's own learning or that of others, the student's individualized education program (IEP) team shall consider positive behavioral interventions and supports, and other strategies, to address the behavior. (Education Code 56521.2; 20 USC 1414)

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 pattern of suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from the student's 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 the student's 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.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, 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 the student's 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 the student or to the student's parent/guardian when, as a result of a suspension, the student is to be excluded from school bus transportation. (Education Code 48915.5)

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 the student's 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 the student's current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow the student to participate in the general education curriculum and to progress toward meeting the goals set out in the 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. If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker. (Education Code 48853.5; 20 USC 1415(k)(1)(H); 34 CFR 300.530)
- 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)

If the student is a foster youth or Indian child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review. (Education Code 48915.5)

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 the student's 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 the student's 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 the student 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)

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 the 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 the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting the goals set out in the 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)

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), the parent/guardian 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 <u>48917</u>)

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.
- 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 the student 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 the student was not an individual with a disability. (20 USC 1415(k)(5); 34 CFR 300.534)

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)

Regulation MILPITAS UNIFIED SCHOOL DISTRICT approved: June 23, 2015 Milpitas, California

Milpitas Unified School District

Printed: 5/16/2024 1:26 PM PT

Regular Board of Education Meeting (Study 4 p.m.; Closed 6 p.m.; Public 7 p.m.) 05/14/2024 04:00 PM

☐ Join Zoom Webinar 83686895446
Randall World Languages School, 1300 Edsel Drive
Milpitas, CA 95035



Scan the above QR code with your phone to view this meeting agenda on your phone. Good evening Milpitas! I am your 2024 Board President Minh Ngo. Welcome to this meeting of the Milpitas Unified School District Board of Education! We appreciate your attendance and participation in our education proceedings, which align with the guidelines set forth by the Ralph M. Brown Act for open meetings. Tune in to our hybrid-style board meetings, online on either Zoom or YouTube, or in-person inside our board room.

Public comments can be made while you are logged onto Zoom or if you are in-person. YouTube, however, is a listen-only option. If you are unable to do either of these, please visit our Written Public Comments webpage for instructions on how to submit your written comment.

For our virtual audience, you will see the instructions for public comment on your screen. Our Communications Specialist will briefly go over them. For our in-person audience, please go to the podium when you are called on. Instructions for both are also listed on each agenda. There are copies available at the back table. One public comment per person is allowed for each item. Our Communications Specialist will take it from here.

If you are speaking to items on tonight's agenda, you will be called on at the appropriate time. You may also address the Board on any subject not on tonight's agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As an unagendized item, no response is required from the Board or District staff and no action can be taken; however, the Board may instruct the Superintendent to agendize the item for a future meeting.

If you would like to address the Board on any item on the agenda or a subject that does not appear on this specific agenda, please join us via Zoom, click the "Raise Your Hand" button, and you will be called upon in order. Please keep your hand raised until you are called on. When it is your turn please state your name, address, and if you have any students in the district before you make your public comment. You will have two minutes to make your public comment. Those wishing to speak during a specific agenda item will be called on at the appropriate time. One public comment per person is allowed for each item. Our communications specialist will activate and unmute speakers in turn. Speakers will be notified shortly before they are called to speak. Persons who do not respond when prompted will forfeit their comment for that item.

Please note that the law prohibits members of the Board in commenting or engaging in discussion during the Public Comment portion of the agenda, except when seeking clarification on a point made by the Speaker. The Board may, however, instruct the Superintendent to look into the matter or place it on a future agenda. Thank you for your participation in this civic engagement.

• Individuals who require special accommodation should contact the Superintendent's Office at (408) 635-2600 ext 6013 at least two business days before the meeting date.

• All disclosable public records related to an agenda item for discussion in <u>open session</u> of a <u>regular meeting</u> of the Board of Education and distributed to all or majority of the Board members less than 72 hours prior to that meeting, shall be made available for public inspection at the same time the writing is distributed to all or majority of the Board members. Any such writings will be made available for public inspection during business hours in the Superintendent's Office (located at 1331 E. Calaveras Blvd.) between 8:00 a.m. and 5:00 p.m. Barring technical difficulties, such writings will also be posted on the District's web site at www.musd.org.

- This meeting is being broadcast live on Zoom and YouTube, and is being recorded. All recordings are posted on our district web site. If you have any safety related concerns regarding your likeliness or comments being broadcast or recorded, please contact the Superintendent's office prior to the meeting.
- Closed captioning is available on Zoom. Click the Closed Captioning icon and then Live Transcription and it will appear on your screen.

1. CALL MEETING TO ORDER

2.	ROLL CALL
	Minh Ngo
	Kelly Yip-Chuan
	Anu Nakka
	Robert Jung
	Chris Norwood
	Student Board Reps Satvika Iyer, Milpitas HS JaniceJoy Herradura, Milpitas Middle College HS Arianna Rocha, Calaveras Hills HS
3.	REVIEW AND APPROVE STUDY SESSION AGENDA Motion Second Action

4. COMMENTS FROM THE PUBLIC REGARDING THE STUDY SESSION AGENDA

Members of the public may address the Board on any subject not on tonight's agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As an unagendized item, no response is required from the Board or District staff and no action can be taken; however, the Board may instruct the Superintendent to agendize the item for a future meeting.

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5. STUDY SESSION

A. Study Session on the 2024-27 Local Control and Accountability Plan (LCAP) Draft.

6. REVIEW AND APPROVE THE CLOSED SESSION AGENDA

The Board may delete items from its posted agenda and may also add items to its posted agenda, pursuant to Govt. Code 54954.2, if such items to be added arise out of "emergency situations", as defined under Govt. Code Sec. 54956.5.

Motion:	Second:	Action:

7. COMMENTS FROM THE PUBLIC

Members of the public may address the Board on any subject not on tonight's agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As an unagendized item, no response is required from the Board or District staff and no action can be taken; however, the Board may instruct the Superintendent to agendize the item for a future meeting.

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8. CLOSED SESSION

The meeting will adjourn to closed session to discuss and/or to take action on the following items. **This** part of the agenda is closed to the public.

- A. PERSONNEL (Pursuant to Government Code Section 54957) Public Employee Appointment/Employment: Certificated Management
- B. CONFERENCE WITH LEGAL COUNSEL—ANTICIPATED LITIGATION Significant exposure to litigation pursuant to Government Code section 54956.9(d)(3): 1 potential case
- C. CONFERENCE WITH LABOR CONSULTATION (Pursuant to Government Code Section 54957.6) MUSD Consultant: Cheryl Jordan, Superintendent -Employee Association: Milpitas Management Association meet and confer

9. RECONVENE IN OPEN SESSION

10. CLOSED SESSION ANNOUNCEMENT

Report on action(s) taken in Closed Session, if required, pursuant to CA Govt. Code Section 54957.1, including abstentions, if any by Board members present.

11.	REVIEW	AND APPROVE	THE OPEN SESSION AGENDA
	Motion:	Second:	Action:

12. FLAG SALUTE

13. COMMENTS FROM THE PUBLIC

Members of the public may address the Board on any subject not on tonight's agenda; however, provisions of the Brown Act (Government Code 54954.2(a) and .3) preclude any action. As an unagendized item, no response is required from the Board or District staff and no action can be taken; however, the Board may instruct the Superintendent to agendize the item for a future meeting.

If you would like to address the Board on any item on the agenda or one that does not appear on the agenda, please join us via Zoom, click the "Raise Your Hand" button, and you will be called upon in order. When it is your turn please state your name, address, and if you have any students in the district before you make your public comment. You will have two minutes to make your public comment. Those wishing to speak during a specific agenda item will be called on at the appropriate time. Thank you for your participation in this civic engagement.

14. MUSD STRATEGIC GOALS

• Build a **Culture of We** that engages parents, staff, and community partners in supporting student success.

- Improve communication systems for better outreach to parents, students, and staff.
- Develop **educational pathways** that allow students to apply their passion in learning for their future careers.
- Focus services and support systems to ensure that all students are engaged in their learning and are making social, emotional, and academic gains.
- Identify **creative**, **student-focused strategies** to accommodate enrollment growth and ensure healthy learning environments.

15. SUPERINTENDENT'S REPORT

A. Recognitions

- 1) Rotary Club of Milpitas for your continued support of our MUSD students, families and community, with the most recent Arbor Day Planting event.
- **2) Student Nutrition Services Team** in recognition of School Food Hero Day and for continuing to provide our students and families with nutritious meals each school day.
- **3) Keryssa Li, Milpitas HS senior,** for being an exemplary student-athlete and earning both the CIF State Spirit of the Sport Scholarship and the CIF Scholar Athlete Scholarship.
- **4) Krishna Singh, Zanker Elementary School student artist**, for earning the Award of Merit at the state-level 6th District PTA Reflections Art Contest.
- **5) Mattos Elementary School PTA** for your commitment to our Mattos community as well as receiving a second National PTA School of Excellence Award.
- 6) TBKCM's Boots and Tools Scholarship for MUSD students
- B. Superintendent's State of the District Update

16. SUPERINTENDENT'S EXECUTIVE CABINET REPORTS

Members of the Executive Cabinet will have recent significant information to present to the Governing Board on topics that are not on the agenda. Reports are limited to 90 seconds each, with 5 minutes allocated for the Principal's Report.

- -Business Services
- -Learning and Development
- -Human Relations
- -Principal, Jackie Vo Felbinger, Mattos

17. STUDENT BOARD REPRESENTATIVES INTRODUCTIONS AND REPORTS

This part is where we introduce our Student Board Representatives. The Student Board Representative reports on school and student activities. Reports are limited to 90 seconds each.

18. BOARD GROUP AGREEMENTS

The Board Group Agreements are provided for the Board's ready reference as a reminder of our conduct as elected officials.

Per Board Bylaw 9001, re-adopted at the March 12, 2024 meeting, Board members and the Superintendent agree to

1. Keep learning and achievement for all students as the primary focus.

- 2. Ask questions for our own understanding to make an informed vote.
- 3. Be open and honest with each other.
- 4. No surprises includes unapproved communications with law enforcement, news media, regional elected officials on behalf of the District and/or Board.
- 5. Be aware that our behavior in the community reflects on us as a governance team.
- 6. Communicate proactively with each other about topics, questions, and challenges in open session and in advance of public Board meetings in compliance with the Brown Act.
- 7. Participate in professional development and commit the time and energy necessary to be an informed and effective governance leader.
- 8. Actively support the Culture of We in action, earnesty and opportunity to serve the students and parents / caregivers of the Milpitas Unified School District.

19. BOARD COMMUNICATIONS/REQUESTS

This part of the agenda provides School Board members the opportunity to report on their activities as elected representatives. School Board members may request the placement of items in future Board agenda, relay information from the community, or request information from staff. The student Board representative reports on school and student activities. Reports are limited to 90 seconds each.

20. REPORTS

- A. Superintendent's Office
 - Enrollment Projections Report by Enrollment Projections Consultants (EPC)
 - ii. STEAM Showcase Report
- B. Learning and Development
 - i. Local Graduation Requirements Update
 - ii. Innovation Campus Update

21. ACTION ITEMS

A. Learning and Development

textbook curriculum.

i.	Conduct one reading and adopt the proposed revisions to existing Board Policy 5144.1 Suspension And Expulsion Due Process Motion: Second: Action:
	It is recommended that the Board of Education reviews and adopts the updated Board Policy 5144.1.
ii	. Approve High School History Curriculum Motion: Second: Action:
	It is recommended that the Board of Education approve the new high school history

B. Superintendent's Office
 i. Adopt Resolution 2024.35 Recognizing Teachers for their Invaluable Contribution to Learners Motion: Second: Action: Adopt resolution.
ii. Adopt Resolution 2024.36 Asian Pacific American Heritage Month Adopt the resolution.
iii. Adopt Resolution 2024.37 Recognizing Fentanyl Awareness Day Motion: Second: Action: Adopt resolution
iv. Adopt Resolution 2024.38 Recognizing Black April 30 and Vietnamese Heritage and Freedom Flag Motion: Second: Action: Adopt resolution.
C. Business Services
 i. Approve Memorandum of Understanding (MOU) with Props & Measures for parcel measure preparation and feasibility study Motion: Second: Action: Approve MOU with Props & Measures.
 ii. Approve Memorandum of Understanding (MOU) with EMC Research for parcel measure feasibility polling Motion: Second: Action: Approve MOU with EMC Research.
iii. Approve Commercial Energy Natural Gas Purchase Agreement Motion: Second: Action: Approve Commercial Energy Natural Gas Purchase Agreement
D. Human Relations
 i. Accept Sunshine Proposal: Milpitas Teachers Association (MTA) Initial Proposal for Reopeners of Collective Bargaining Agreement (CBA) to MUSD Motion: Second: Action: It is recommended that the Board of Education receive the MTA's Initial Proposal for negotiations over the reopened to the September 1, 2024 - August 31, 2026 CBA with MUSD and adopt such proposal following a public hearing on May 28, 2024.
2. CONSENT ITEMS Consent items are considered routine and will be acted upon by the Board in one motion. There is no discussion on these items prior to the motion unless members of the Board, staff, or public request that specific items be tabled, or removed for discussion or correction.

22.

Motion:	Second:	Action:	
IVIOLIOII.	occoria.	ACTION.	

A. Business Services

i. Approve Field Trip Requests of May 14, 2024 School sites must submit field trip requests for board approval. This is the current list of field trip requests of May 14, 2024. Approve the field trip requests of May 14, 2024.

- ii. Accept donations to Milpitas Unified School District Accept donations to Milpitas Unified School District
- iii. Approve Signet Testing Labs, Inc.'s Amendment #2 to the Innovation Campus II Agreement.

 Approve Signet Testing Labs, Inc.'s Amendment #2 to the Innovation Campus II Agreement.
- iv. Approve HazMat Doc's Agreement for Abatement Monitoring at Innovation Campus Phase 600 Building Project Approve HazMat Doc's Agreement for Abatement Monitoring at Innovation Campus Phase 600 Building Project.
- v. Approve Bosco Construction Services Boundary Surveying on the Sunnyhills CDC Fencing Project. Approve Bosco Construction Services Boundary Surveying on the Sunnyhills CDC Fencing Project.
- vi. Approve Purchase Order Report of May 14, 2024
- vii. Approve FieldTurf's USA, Inc. Proposal for the Purchase and Installation of New Synthetic Turf for the MHS Baseball and Softball Fields.

 Approve FieldTurf's USA, Inc. Proposal for the Purchase and Installation of New Synthetic Turf for the MHS Baseball and Softball Fields.
- viii. Approve the Purchase of Recycling Stations from Veritiv Approve the Purchase of Recycling Stations from Veritiv
- ix. Approve Jahn Plumbing's Work for Rose CDC's Walkway Approve Jahn Plumbing's Work for Rose CDC's Walkway
- x. Approve to Classify the Equipment as Obsolete.

 Approve to Classify the Equipment as Obsolete.
- xi. Approve Virtual Meeting Solutions Agreement for Streaming and Broadcast Services Approve Virtual Meeting Solutions Agreement for Streaming and Broadcast Services
- xii. Approve the Purchase of a 2024 Ford Transit MR Wagon from Serramonte Ford.

 Approve the Purchase of a 2024 Ford Transit MR Wagon from Serramonte Ford.
- xiii. Approve Orbach Huff & Henderson LLP Retainer Agreement for Legal Services. Approve Orbach Huff & Henderson LLP Retainer Agreement for Legal Services.
- xiv. Approve Cal Coast Telecom to Install Bluetooth Audio System at Mattos Approve Cal Coast Telecom to Install Bluetooth Audio System at Mattos
- xv. Approve offering MUSD parents the option of purchasing student accident insurance from Pacific Educators Insurance Services for the 2024-2025 school year.

 Approve offering MUSD parents the option of purchasing student accident insurance from Pacific Educators Insurance Services for the 2024-2025 school year.
- xvi. Approve the 2024-2025 Memorandum of Understanding (MOU) for Annual Technical Services between Santa Clara County Office of Education and Milpitas Unified School District Approve the Memorandum of Understanding (MOU) with SCCOE for the 2024-2025 fiscal year.
- B. Learning and Development
 - i. Approve PBL Works for the 2024-2025 School Year.

It is recommended that the Board of Education approves the MOU with PBL Works for the 2024-2025 School Year.

ii. Approve ProLearning Contract with Pomeroy Elementary School

It is recommended that the School Board approve the purchase of phonics tiles with ProLearning for the 2023-2024 School Year.

iii. Approve MUSD 3-Year Expulsion Plan

It is recommended that the School Board approve the District's Three-Year Expulsion Plan.

iv. Approve Contract for Services Agreement between Air Tutors and Milpitas Unified School District for 2024-2025 School Year

It is recommended that Board of Education approve the Contract for Services Agreement between Air Tutors and Milpitas Unified School District.

v. Approve Morgan Autism Center Agreement, a Non-Public School, for the 2023-2024 School Year

It is recommended that the Board of Education approve this agreement for the remainder of the 2023-2024 School Year.

- vi. Milpitas Unified School District Community School Program
 It is recommended that Board of Education approves the 2024-2025 Allotment
- vii. Approve 2023-24 Right at School Amendment for ASES Program
 It is recommended that the Board of Education approve the Right at School Amendment for the ASES Program for 2024-25 school year.

C. Human Relations

- i. Approve Personnel Report of May 14, 2024
- ii. Approve Agreement with Helios Approve agreement with Helios.
- iii. Approve Agreement with Care Solace
 Approve continuation of mental health service with Care Solace.
- iv. Approve Agreement with PowerSchool Approve Sales Quote and Agreement with PowerSchool.
- v. Approve Agreement with Codesp Approve Agreement with Codesp
- D. Superintendent's Office
 - i. Approve Regular Meeting Minutes of April 23, 2024

23. DATES OF FUTURE BOARD MEETINGS

May 28 -**TENTATIVE** Study Session: 5 p.m. **TENTATIVE** Closed Session: 6 p.m. Open Session: 7 p.m. Hybrid on Zoom, YouTube and Randall World Languages School (1300 Edsel Drive)

June 11 - **TENTATIVE** Study Session: 5 p.m. **TENTATIVE** Closed Session: 6 p.m. Open Session: 7 p.m. Hybrid on Zoom, YouTube and Randall World Languages School (1300 Edsel Drive)

24. ANNOUNCEMENTS/REMINDERS

25. ADJOURNMENT

Santa Clara Unified School District

Three Year Expulsion Plan 2024-2027

Between the

Santa Clara Unified District

and

The Santa Clara County Office of Education

For the implementation of

California Education Code 48926

Gary Waddel, ED.D., Superintendent

Rob Griffin, Coordinator Of Student Services

Santa Clara Unified School District (SCUSD) Triennial Expulsion Plan for 2024-2027

California Education Code (EC) Section 48926 requires county superintendents, in conjunction with superintendents of school districts within the county, to develop a plan for providing educational services to all expelled pupils in that county.

The following plan describes the policies, procedures, and practices of Santa Clara Unified School District to ensure equitable intervention practices and educational options are implemented before, during, and after an expulsion for the affected pupil.

The information in this document reflects a triennial update of the 2021 plan, and is formatted to respond to the requirements and recommendations put forth by the California Department of Education. It was approved by the Santa Clara Unified School District Board of Trustees on May 23, 2024.

The Santa Clara Unified School District is located in the heart of Silicon Valley/Santa Clara County. SCUSD serves approximately 13,500 PreK-12 students and approximately 6,000 students in pre-school through adult school. Neighborhoods in the cities of Santa Clara, Sunnyvale, San Jose, and Cupertino comprise the District's 56 square-mile area. The District has 30 sites: 18 elementary schools, 1 K-8 school, 4 middle schools, 3 comprehensive high schools, 1 Community Day School, 1 6-12 independent study school, and 2 alternative high schools including a continuation and early college high school. The district currently has 18 TK classrooms throughout the district and with the new Universal Pre-K (UPK) plans, will continue to open up TK classrooms until full implementation in Fall 2025. Our State contracted and district preschool programs are also available for families across the district. Similar to many school districts in Santa Clara County SCUSD has been experiencing declining enrollment.

Our TK-12 student population is 23% English learners (EL). 57% of our EL students have a Spanish home language, whereas the remaining highest percentage of non-English home languages are Punjabi, Vietnamese, Japanese, and Mandarin. Each representing under 1% of the EL student population. Overall, SCUSD is richly represented in language diversity with over 50 additional languages other than English spoken by students or families in the district with the remaining 50 languages representing under 3% of our EL population. Our student population identifies with the following ethnic groups: 37% Hispanic/Latino, 29% Asian,17% White, 7% Two or more races, 5% Filipino, and 3% African American. 35% of our students qualify for free or reduced priced meals. Our Students with IEPs consist of 15% of our school population.

Behavioral Intervention Practices

The Santa Clara Unified School District (SCUSD) will continue to implement PBIS and MTSS at our elementary schools and implement MTSS at our secondary schools. The district and the sites have worked on the planning and implementation of proactive support in the areas of academics, behavior, social-emotional state, and attendance. Most schools now have disciplinary flow charts which help delineate what student behaviors are expected to be classroom managed and what behaviors are expected to be office managed. In supporting the whole person, behavior supports are implemented following the PBIS model. Social-emotional supports are implemented by using new curriculum and by training administrators, certificated, and classified staff on restorative practices, social emotional learning, and equity lens. We have also increased the number of social workers in the District. We have a Wellness Coordinator assigned to each school site and currently have a Wellness Center operating at each of our secondary schools.

Using the PBIS model, schools create proactive behavior plans that foster a positive school climate before any undesired behaviors take place. All our sites have revised and updated their behavior expectations charts, rewritten their discipline matrices, and created disciplinary flow charts. In doing so, all sites are also implementing new alternatives to suspension, such as routing the student for social-emotional support.

Concurrently, our schools work with a Santa Clara County initiative called School Linked Services This work helps connect students and families with numerous community based organizations that offer mental health services for individual students, for groups, and for families, on and off campus. Our SLS Social Worker serves as the point person for support referrals.

Furthermore, the SCUSD Family Resource Center (FRC) has a centralized location to increase collaboration and provide additional streamlined services and resources to help families become more engaged in their child's education. The services help families access critical information that is readily available in accessible formats and languages promoting culturally appropriate practices reflecting our parent community. Collectively, the FRC manages the referral process for student and family services beyond mental health, such as food, clothing, housing, or healthcare.

Behavior Disproportionality

The district office and the sites have worked together to strengthen the support offered to student groups who face most hurdles and who may be over-represented in suspensions and expulsions. Thirty-Eight point zero eight percent (38.08%) of our student population is Hispanic or Latino while 65.12% of the suspension are of Hispanic or Latino students.

In 2023-2024, Santa Clara Unified School District also served 54 McKinney-Vento pupils and 7 foster pupils. The district has a team of certificated and classified staff to provide direct services to our students who are unhoused, in the foster system, or part of the migrant population. They work directly with the families to provide academic support, counseling, and family resources as needed.

1. Explanation of practices and how they relate to any disproportionate representation of minority students

Our expulsion data shows that some underserved student groups are over-represented.

In 2022-23 there were eleven (11) total expulsions. Ten (10) of them were expulsions with a suspended enforcement: By ethnicity, of the fifty-eight (58) total recommendations for consideration for expulsion, 70.4% were Hispanic or Latino, 20.7% were White; and 3.4% were African American. Sixty-five point zero eight (65.08%) of the students referred for consideration for expulsion were special education students.

The Santa Clara Unified School District has established a number of programs and supports to provide for the social, emotional, mental-health, and behavioral well-being of our pupils.

The district provides opportunity for all staff to understand and comply with federal and state laws to prevent any discrimination, including that based on race, color, national origin, gender, sexual orientation, disability, or place of origin. Over the course of the next three years, district staff, site leadership, school staff, and students will continue professional development activities based on equity beliefs and practices, confronting racial discrimination, and inclusion of students with disabilities. Positive proactive approaches to supporting students with disabilities using punitive discipline only when other means are not possible.

Trauma informed practices are prioritized so staff is aware about the stressors and depressors that some of our students and families suffer under. Also, empathy work is a focus in order to establish a welcoming sense of belonging and community on our campuses. We expect to consistently promote welcoming and safe schools.

Discipline and restorative practices that keep at the center a fostering support for the student with the goal of separating the youth from the action. We now have 3 staff that serve as trainers for restorative practices. Our restorative practices professional development activities in 2024 and beyond promote discipline policies that protect both the student who causes harm and the student harmed. We expect to have safe, inclusive, supportive, and fair school climates.

Additionally, the District is engaged in equity efforts. Goals were set to address the needs of Latino students and promote school success socially emotionally, academically, and behaviorally.

Educational Placements For Expelled Students

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 one K-8 School, four traditional middle schools and three 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)
- 4. Expulsion with placement at Santa Clara Community Day School.

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.

<u>Strategy</u>: 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.

<u>Strategy</u>: The Santa Clara Unified School District will work with our own Special Education Department and 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:

<u>Court Schools*</u> (*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 2022-2023 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 maintain a 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 developed a hybrid alternative blended learning/independent study program during the 2018-19 school year which will combine multiple resources and options for students, based on their individual learning plan.

Policy 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 02/13/2014 | Last Revised Date: 06/11/2020 |

Last Reviewed Date: 06/11/2020

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 wellbeing, 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.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
Civ. Code 47	Privileged communication
Civ. Code 48.8	<u>Defamation liability</u>
Code of Civil Procedure 1985- 1997	Production of evidence; means of production
Ed. Code 17292.5	Program for expelled students; facilities
Ed. Code 1981-1983	Enrollment of students in community school
Ed. Code 212.5	Sexual harassment
Ed. Code 233	Hate violence
Ed. Code 32260-32262	Interagency School Safety Demonstration Act of 1985
Ed. Code 35145	Open board meetings
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules for government and discipline of schools
Ed. Code 35291.5	Rules and procedures on school discipline
Ed. Code 48645.5	Former juvenile court school students; enrollment

Ed. Code 48660-48666 Community day schools

Ed. Code 48853-48853.5 <u>Foster youth</u>

Ed. Code 48900-48927 <u>Suspension and expulsion</u>

Ed. Code 48950 Speech and other communication

Ed. Code 48980 Parent/Guardian notifications

Ed. Code 49073-49079 Privacy of student records

Ed. Code 52052 <u>Numerically significant student subgroups</u>

Ed. Code 52060-52077 Local control and accountability plan

Ed. Code 64000-64001 Consolidated application

Ed. Code 8489-8489.1 <u>Prohibition against expulsion of preschool student</u>

Gov. Code 11455.20 <u>Informal hearing procedures</u>

Gov. Code 54950-54963 The Ralph M. Brown Act

H&S Code 11014.5 <u>Drug paraphernalia</u>

H&S Code 11053-11059 Controlled substances; standards and schedules

Lab. Code 230.7 Employee time off to appear in school on behalf of a child

Pen. Code 240 Assault defined

Pen. Code 241.2 <u>Assault fines</u>

Pen. Code 242 <u>Battery defined</u>

Pen. Code 243.2 <u>Battery on school property</u>

Pen. Code 243.4 Sexual battery

Pen. Code 245 Assault with deadly weapon

Pen. Code 245.6 <u>Hazing</u>

Pen. Code 261 Rape defined

Pen. Code 266c <u>Unlawful sexual intercourse</u>

Pen. Code 286 Sodomy defined

Pen. Code 287 <u>Oral Copulation</u>

Pen. Code 288 Lewd or lascivious acts with child under age 14

Pen. Code 289 <u>Penetration of genital or anal openings</u>

Pen. Code 31 Principal of a crime; defined

Pen. Code 417.27 <u>Laser pointers</u>

Pen. Code 422.55 Definition of hate crime

Pen. Code 422.6 <u>Crimes; harassment</u>

Pen. Code 422.7 <u>Aggravating factors for punishment</u>

Pen. Code 422.75 Enhanced penalties for hate crimes

Pen. Code 626.10 Dirks, daggers, knives, razors, or stun guns

Pen. Code 626.2 Entry upon campus after written notice of suspension or dismissal

without permission

Pen. Code 626.9 <u>Gun-Free School Zone Act of 1995</u>

Pen. Code 868.5 Supporting person; attendance during testimony of witness

W&I Code 224.1 <u>Indian child; definition</u>

W&I Code 729.6 Counseling

Federal Description

18 USC 921 Definitions; firearms and ammunition

20 USC 1415(K) Students with disabilities; placement in alternative educational setting

20 USC 7961 Gun-Free Schools Act

42 USC 11431-11435 Education of homeless children and youths

Management Resources	Description
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 348 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 85 (1997)
Attorney General Opinion	80 Ops.Cal.Atty.Gen. 91 (1997)
Attorney General Opinion	84 Ops.Cal.Atty.Gen. 146 (2001)
Court Decision	Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Court Decision	Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
Court Decision	Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
Court Decision	John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
Court Decision	T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Court Decision	Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
U.S. DOE, Office for Civil Rights Publication	Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014
Website	CSBA District and County Office of Education Legal Services
Website	U.S. Department of Education, Office of Safe and Healthy Students
Website	California Attorney General's Office
Website	California Department of Education
Website	<u>CSBA</u>
Website	U.S. Department of Education, Office for Civil Rights
Cross References	
Code	Description

0450 Comprehensive Safety Plan 0450 Comprehensive Safety Plan 0460 Local Control And Accountability Plan 0460 Local Control And Accountability Plan 1114 District-Sponsored Social Media 1114 District-Sponsored Social Media 1312.3 **Uniform Complaint Procedures** 1312.3 **Uniform Complaint Procedures** 1313 Civility 1313-E PDF(1) Civility 3513.3 Tobacco-Free Schools 3513.3 Tobacco-Free Schools 3513.3-E PDF(1) Tobacco-Free Schools 3513.4 Drug And Alcohol Free Schools 3515 Campus Security 3515 Campus Security 3515.21 **Unmanned Aircraft Systems (Drones)** 3515.4 Recovery For Property Loss Or Damage 3515.4 Recovery For Property Loss Or Damage 3516.2 **Bomb Threats** 4158 **Employee Security** 4158 **Employee Security**

4258	Employee Security
4258	Employee Security
4358	Employee Security
4358	Employee Security
5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5117	Interdistrict Attendance
5117	Interdistrict Attendance
5117-E PDF(1)	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
5131	Conduct
5131.1	Bus Conduct

5131.1	Bus Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
5131.62	Tobacco
5131.62	Tobacco
5131.63	Steroids
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5142	Safety
5142	Safety
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.2	Suspension And Expulsion/Due Process (Students With Disabilities)
5145.12	Search And Seizure
5145.12	Search And Seizure
5145.2	Freedom Of Speech/Expression

5145.2	Freedom Of Speech/Expression
5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E PDF(1)	Parent/Guardian Notifications
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Regulation 5144.1: Suspension And Expulsion/Due Process

Original Adopted Date: 02/13/2014 | Last Revised Date: 05/24/2023 |

Last Reviewed Date: 05/24/2023

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, so long as removal from a particular class does 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)

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

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- 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 11053-11059, 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 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the same as a 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(1))

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, 287, 288, 289, or former 288a, 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(s) 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))

Burn page means an internet web site created for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated. (Education Code 48900(r))

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile. (Education Code 48900(r))

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet. (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 out the crime. (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 #1-19 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)

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school. (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 away from school 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 upon a student, including supervised suspension, 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 class, 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 in the student's 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, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. 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 for the conference. (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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, 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)

- 4. In addition, the notice may state the date and time when the student may return to school.
- 5. Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct 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, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference. (Education Code 48911)

- 6. 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.
- c. If the student involved is a foster youth or Indian child, the Superintendent or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, 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)
- e. 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, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student if an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall 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 11053-11059, except for:
 - a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis.
 - b. The student's possession of over-the-counter medication for use by the student for medical purposes.
 - c. Medication prescribed for the student 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 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 offense for which the student may be expelled, the Superintendent, principal, or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, 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 written notice of the expulsion hearing pursuant to Education Code 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. 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, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student, 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, Homeless Students, and Indian Children

If the student facing expulsion is a foster student or Indian child, the Superintendent or designee shall also send notice of the hearing to the foster youth's' educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least 10 calendar 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 calendar 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)
- 2. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether 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))

- 3. 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))
- 4. 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 #6 below. (Education Code 48918(i))

- 5. 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))
- 6. 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.

- 7. 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.
- 8. 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:

- 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

If a student is expelled from school, 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 student's parent/guardian, or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian or other person holding the right to make educational decisions for the student 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 student's parent/guardian or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian, or other person holding the right to make educational decisions for the student, 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 the student's parent/guardian, or other person holding the right to make educational decisions for the student, 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.

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)

Policy Reference Disclaimer:

04 - 4

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
Civ. Code 47	Privileged communication
Civ. Code 48.8	Defamation liability

Code of Civil Procedure 1985-

1997

Production of evidence; means of production

Ed. Code 17292.5 Program for expelled students; facilities

Ed. Code 1981-1983 Enrollment of students in community school

Ed. Code 212.5 Sexual harassment

Ed. Code 233 <u>Hate violence</u>

Ed. Code 32260-32262 Interagency School Safety Demonstration Act of 1985

Ed. Code 35145 Open board meetings

Ed. Code 35146 Closed sessions regarding suspensions

Ed. Code 35291 Rules for government and discipline of schools

Ed. Code 35291.5 Rules and procedures on school discipline

Ed. Code 48645.5 Former juvenile court school students; enrollment

Ed. Code 48660-48666 Community day schools

Ed. Code 48853-48853.5 <u>Foster youth</u>

Ed. Code 48900-48927 <u>Suspension and expulsion</u>

Ed. Code 48950 Speech and other communication

Ed. Code 48980 Parent/Guardian notifications

Ed. Code 49073-49079 Privacy of student records

Ed. Code 52052 Numerically significant student subgroups

Ed. Code 52060-52077 Local control and accountability plan

Ed. Code 64000-64001 <u>Consolidated application</u>

Ed. Code 8489-8489.1 <u>Prohibition against expulsion of preschool student</u>

Gov. Code 11455.20 Informal hearing procedures

Gov. Code 54950-54963 The Ralph M. Brown Act

H&S Code 11014.5 <u>Drug paraphernalia</u>

H&S Code 11053-11059 Controlled substances; standards and schedules

Lab. Code 230.7 Employee time off to appear in school on behalf of a child

Pen. Code 240 <u>Assault defined</u>

Pen. Code 241.2 <u>Assault fines</u>

Pen. Code 242 <u>Battery defined</u>

Pen. Code 243.2 <u>Battery on school property</u>

Pen. Code 243.4 Sexual battery

Pen. Code 245 <u>Assault with deadly weapon</u>

Pen. Code 245.6 <u>Hazing</u>

Pen. Code 261 Rape defined

Pen. Code 266c Unlawful sexual intercourse

Pen. Code 286 Sodomy defined

Pen. Code 287 <u>Oral Copulation</u>

Pen. Code 288 <u>Lewd or lascivious acts with child under age 14</u>

Pen. Code 289 Penetration of genital or anal openings

Pen. Code 31 <u>Principal of a crime; defined</u>

Pen. Code 417.27 <u>Laser pointers</u>

Pen. Code 422.55 Definition of hate crime

Pen. Code 422.6 <u>Crimes; harassment</u>

Pen. Code 422.7 <u>Aggravating factors for punishment</u>

Pen. Code 422.75 <u>Enhanced penalties for hate crimes</u>

Pen. Code 626.10 Dirks, daggers, knives, razors, or stun guns

Pen. Code 626.2 Entry upon campus after written notice of suspension or dismissal

without permission

Pen. Code 626.9 Gun-Free School Zone Act of 1995

Pen. Code 868.5 Supporting person; attendance during testimony of witness

W&I Code 224.1 Indian child; definition

W&I Code 729.6 <u>Counseling</u>

Federal Description

18 USC 921 Definitions; firearms and ammunition

20 USC 1415(K) Students with disabilities; placement in alternative educational setting

20 USC 7961 Gun-Free Schools Act

42 USC 11431-11435 Education of homeless children and youths

Management Resources Description

Court Decision

Attorney General Opinion 80 Ops.Cal.Atty.Gen. 348 (1997)

Attorney General Opinion 80 Ops.Cal.Atty.Gen. 85 (1997)

Attorney General Opinion 80 Ops.Cal.Atty.Gen. 91 (1997)

Attorney General Opinion 84 Ops.Cal.Atty.Gen. 146 (2001)

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85

Cal.App.4th 1321

Court Decision Fremont Union High School District v. Santa Clara County Board

(1991) 235 Cal. App. 3d 1182

Court Decision Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807

Court Decision John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

Court Decision

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th

1267

Court Decision Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

U.S. DOE, Office for Civil Rights

Publication

Dear Colleague Letter on the Nondiscriminatory Administration of

School Discipline, January 2014

Website CSBA District and County Office of Education Legal Services

Website U.S. Department of Education, Office of Safe and Healthy Students

Website <u>California Attorney General's Office</u>

Website California Department of Education

Website <u>CSBA</u>

Website U.S. Department of Education, Office for Civil Rights

Cross References

Code Description

0450 <u>Comprehensive Safety Plan</u>

O450 Comprehensive Safety Plan

0460 <u>Local Control And Accountability Plan</u>

0460 <u>Local Control And Accountability Plan</u>

1114 <u>District-Sponsored Social Media</u>

1114 <u>District-Sponsored Social Media</u>

1312.3 <u>Uniform Complaint Procedures</u>

1312.3 <u>Uniform Complaint Procedures</u>

1313 <u>Civility</u>

1313-E PDF(1) <u>Civility</u>

3513.3 <u>Tobacco-Free Schools</u>

3513.3 Tobacco-Free Schools

3513.3-E PDF(1)	Tobacco-Free Schools
3513.4	Drug And Alcohol Free Schools
3515	Campus Security
3515	Campus Security
3515.21	Unmanned Aircraft Systems (Drones)
3515.4	Recovery For Property Loss Or Damage
3515.4	Recovery For Property Loss Or Damage
3516.2	Bomb Threats
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4158	Employee Security
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5000	Concepts And Roles
5112.1	Exemptions From Attendance
5112.5	Open/Closed Campus
5113	Absences And Excuses
5113	Absences And Excuses
5113.1	Chronic Absence And Truancy
5113.1	Chronic Absence And Truancy
5113.11	Attendance Supervision

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5117	Interdistrict Attendance
5117	Interdistrict Attendance
5117-E PDF(1)	Interdistrict Attendance
5119	Students Expelled From Other Districts
5125	Student Records
5125	Student Records
5125.2	Withholding Grades, Diploma Or Transcripts
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5131.1	Bus Conduct
5131.1	Bus Conduct
5131.2	Bullying
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5131.5	Vandalism And Graffiti
5131.6	Alcohol And Other Drugs
5131.6	Alcohol And Other Drugs
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5131.62	Tobacco
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5131.7	Weapons And Dangerous Instruments

5131.7	Weapons And Dangerous Instruments
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5145.6	Parent/Guardian Notifications
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5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.71	Title IX Sexual Harassment Complaint Procedures
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5145.9	Hate-Motivated Behavior
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6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
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6173-E(2)	Education For Homeless Children

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6173	Education For Homeless Children
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6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
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6185	Community Day School
9000	Role Of The Board
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Regulation 5144.2: Suspension And Expulsion/Due Process (Students With Disabilities)

Original Adopted Date: 02/13/2014 | Last Revised Date: 05/24/2023 |

Last Reviewed Date: 05/24/2023

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 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 or expulsion of a student with disabilities shall be in accordance with Board Policy 5144.1 - Suspension and Expulsion/Due Process and this administrative regulation.

When a student with disabilities exhibits behavior which impedes the student's own learning or that of others, the student's individualized education program (IEP) team shall consider positive behavioral interventions and supports, and other strategies, to address the behavior. (Education Code 56521.2; 20 USC 1414)

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. (34 CFR 300.530; Education Code 48903)

(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 any 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.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, 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 the student or the student's parent/guardian when, as a result of a suspension, the student is to be excluded from school bus transportation. (Education Code 48915.5)

(cf. 3541.2 - Transportation for Students with Disabilities)

The principal or designee shall monitor the number of days, including portions of days, in which a student with an IEP has been suspended during the school year.

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 parents/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 the student 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 parents/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker. (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)

If the student is a foster youth or Indian child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review. (Education Code 48915.5)

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 a condition in either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of the student's 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 conduct has been determined to be a manifestation of the student's 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 the student 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

the 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 the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting

the goals set out in the 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 the parent/guardian 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 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 the student's information or records will not be disclosed 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 in writing, 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 in writing, 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 to 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 the student 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 the 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)

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State	Description
Ed. Code 35146	Closed sessions regarding suspensions
Ed. Code 35291	Rules of governing board
Ed. Code 48203	Reports of severance of attendance of disabled students
Ed. Code 48853.5	Foster youth and Indian child's representatives' right to receive notices
Ed. Code 48900-48925	Suspension and expulsion
Ed. Code 49076	Access to student records
Ed. Code 56000	Special education; legislative findings and declarations
Ed. Code 56320	Educational needs; requirements
Ed. Code 56321	Development or revision of individualized education program
Ed. Code 56329	<u>Independent educational assessment</u>
Ed. Code 56340-56347	Individualized education program teams
Ed. Code 56505	State hearing
Ed. Code 56521.2	Behavioral interventions
Pen. Code 245	Assault with deadly weapon
Pen. Code 626.10	Dirks, daggers, knives, razors, or stun guns
Pen. Code 626.2	Entry upon campus after written notice of suspension or dismissal without permission
Pen. Code 626.9	Gun-Free School Zone Act of 1995
Federal	Description
18 USC 1365	Serious bodily injury
10 USC 1303	Serious boung injury
18 USC 930	Weapons

20 USC 1412	State eligibility
20 USC 1414	Evaluations, eligibility determinations, individualized education programs, and educational placements
20 USC 1415	Procedural safeguards
21 USC 812	Schedule of controlled substances
29 USC 794	Rehabilitation Act of 1973; Section 504
34 CFR 104.35	Evaluation and placement
34 CFR 104.36	Procedural safeguards
34 CFR 300.1-300.818	Assistance to states for the education of students with disabilities
34 CFR 300.530-300.537	Discipline procedures

Management Resources	Description
Court Decision	Honig v. Doe (1988) 484 U.S. 305
Court Decision	M.P. v. Governing Board of Grossmont Union High School District (1994) 858 F.Supp. 1044
Court Decision	Parents of Student W. v. Puyallup School District (1994 9th Cir.) 31 F.3d 1489
Court Decision	Schaffer v. Weast (2005) 546 U.S. 49
Federal Register	Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845
Ofc of Special Education & Rehabilitative Svcs Pub	Letter Commenting on Hearing Officer Authority to Determine whether Conduct is a Violation of Student Code of Conduct, July 2012
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on Supporting the Needs of Students with Disabilities, July 2022
Ofc of Special Education & Rehabilitative Svcs Pub	Dear Colleague Letter on Supporting the Needs of Students with Disabilities, July 2022
Ofc of Special Education & Rehabilitative Svcs Pub	Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions, July 2022

Ofc of Special Education & Positive, Proactive Approaches to Supporting Children with Rehabilitative Svcs Pub Disabilities: A Guide for Stakeholders, July 2022

Office of Administrative Hearings Parent v. Fairfield-Suisun Unified School District (2012) Case No. 2012030917

U.S. DOE, Office for Civil Rights Publication Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973

Website CSBA District and County Office of Education Legal Services

Website U.S. Department of Education, Office of Special Education and

Rehabilitative Services

Website <u>California Department of Education, Special Education</u>

Website <u>U.S. Department of Education, Office for Civil Rights</u>

Cross References

Code	Description
0430	Comprehensive Local Plan For Special Education
0430	Comprehensive Local Plan For Special Education
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan
0460	Local Control And Accountability Plan
0460	Local Control And Accountability Plan
3513.4	Drug And Alcohol Free Schools
3541.2	<u>Transportation For Students With Disabilities</u>
4118	Dismissal/Suspension/Disciplinary Action
4158	Employee Security
4158	Employee Security
4258	Employee Security
4258	Employee Security

4358	Employee Security
4358	Employee Security
5113.11	Attendance Supervision
5116.2	Involuntary Student Transfers
5125	Student Records
5125	Student Records
5131	Conduct
5131.2	Bullying
5131.2	Bullying
5131.4	Student Disturbances
5131.4	Student Disturbances
5131.62	Tobacco
5131.62	Tobacco
5131.7	Weapons And Dangerous Instruments
5131.7	Weapons And Dangerous Instruments
5137	Positive School Climate
5144	Discipline
5144	Discipline
5144.1	Suspension And Expulsion/Due Process
5144.1	Suspension And Expulsion/Due Process
5145.2	Freedom Of Speech/Expression
5145.2	

5145.3	Nondiscrimination/Harassment
5145.3	Nondiscrimination/Harassment
5145.6	Parent/Guardian Notifications
5145.6-E PDF(1)	Parent/Guardian Notifications
5145.7	Sexual Harassment
5145.7	Sexual Harassment
5145.9	Hate-Motivated Behavior
6145	Extracurricular And Cocurricular Activities
6145	Extracurricular And Cocurricular Activities
6145.2	Athletic Competition
6145.2	Athletic Competition
6159	Individualized Education Program
6159	Individualized Education Program
6159.1	Procedural Safeguards And Complaints For Special Education
6159.1	Procedural Safeguards And Complaints For Special Education
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.3	Appointment Of Surrogate Parent For Special Education Students
6159.4	Behavioral Interventions For Special Education Students
6163.4	Student Use Of Technology
6163.4	Student Use Of Technology
6163.4-E PDF(1)	Student Use Of Technology
6164.4	Identification And Evaluation Of Individuals For Special Education

6164.4	Identification And Evaluation Of Individuals For Special Education
6164.5	Student Success Teams
6164.5	Student Success Teams
6164.6	Identification And Education Under Section 504
6164.6	Identification And Education Under Section 504
6173-E(2)	Education For Homeless Children
6173	Education For Homeless Children
6173	Education For Homeless Children
6173.1	Education For Foster Youth
6173.1	Education For Foster Youth
6173.4	Education For American Indian Students
6184	Continuation Education
6184	Continuation Education
6185	Community Day School
6185	Community Day School
9321	Closed Session

5/10/24, 4:20 PM BoardDocs® Plus



Agenda Item Details

Meeting May 09, 2024 - Regular Board Meeting of the Board of Trustees

Category M. DISCUSSION ITEMS (10 minutes)

Subject 1. Three-Year Expulsion Plan for Santa Clara Unified School District for the Period of

July 1, 2024 through June 30, 2027

Type Discussion

Goals Strategic Outcome #3 - Eliminate Discriminatory Practices

LCAP Goal #2 - All students make progress in the elements of the Graduate

Portrait

SUBMITTED BY: Brad Stam, Chief Academic and Innovation Officer

PREPARED BY: Brenda Carrillo, Ed.D., Director of Student Services

ADMINISTRATIVE SUMMARY:

The California Department of Education and Education Code 48926 mandate that every three years, school districts and county offices of education update their expulsion plan. The current plan expires July 1, 2024.

The Santa Clara Unified School District (SCUSD) section of 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, behavioral intervention practices, and specific explanation of how those practices relate to any disproportionate representation of minority students in such interventions. The countywide plans for articulation and coordination between the school districts as well as SCUSD Board policies must be included in the plan.

The attached plan is for the period of July 1, 2024 through June 30, 2027. It will be presented to the Board for approval at its meeting on May 24, 2024

SCUSD Expulsion Plan 2024 4-25-24.pdf (389 KB)



Plan for Expelled Students 2024-2027 Education Codes 48916.1 and 48926

Nancy Albarrán, Superintendent Jodi Lax, Associate Superintendent of Instruction

Developed by STUDENT SERVICES DEPARTMENT

Darbi O'Connell, Director
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District Gaps and Strategies in Educational Services	

SAN JOSÉ UNIFIED SCHOOL DISTRICT PLAN FOR EXPELLED YOUTH

San José Unified School District believes in a multi-tiered approach to interventions that support students' success in a comprehensive school setting. In addition to our tiered interventions approach noted below, we provide staff with professional development to improve their ability to work with all students; these training offerings include but are not limited to Trauma-Informed Practices, Gender Spectrum, Grace Dearborn Conscious Classroom Management, Restorative Practices Training, and Safety Care De-escalation Strategies. We continue to expand our community partnerships with organizations that support our students, such as the Santa Clara County Office of Education and Department of Family and Children's Services, School-Based Intervention Teams, Restorative Response Teams, and agreements with outside providers that support behavioral and mental health for students. Additionally, we are in the process of implementing wellness centers on our secondary school campuses to help eliminate barriers to receiving mental health services for our students.

District Overview and Intervention Practices

San José Unified School District is the largest K-12 school district in Santa Clara County, serving 26,000 students and families throughout the San José area. San José Unified School District uses a multi-tiered approach to a positive school climate and culture as a primary intervention to ensure our students' success. SJUSD provides many early intervention strategies at the comprehensive and alternative school sites. In order to minimize the number of both suspensions and expulsions, the district provides intervention strategies for all grade levels, TK-12, which include, but are not limited to:

Tier 1 Interventions

- Positive Behavior Interventions and Supports (PBIS)/Culture and Climate Teams
- School Currency or Token economy for recognition of positive behavior
- Reteaching of expectations based on the current year's discipline data.
- Social Emotional Learning Curriculum for all students in grades TK-12
- District Wide student Presentations based on data from the previous year:
 - o 24-25 Sexual Harassment, secondary only
 - o 23-24 Student Handbook, secondary only
- Community Meetings that reinforce expected behaviors based on current behavior observations and data at individual sites.
- Coaching around PBIS/Culture and Climate

Tier 2 Interventions

- Counseling referrals to School Linked Services (SLS) and Prevention and Early Intervention (PEI) providers.
- Counseling groups run by school site counselor.
- Student Support Team (SST) interventions for students.
- Crisis Team observations and supports.
- Parent Project
- Weekly virtual parenting classes for elementary families in English and Spanish
- Restorative Circles
- Alternative to Suspension
- Intake Meetings for students returning from Suspension.
- RISE: Restorative Intervention Supporting Elevation
- No Contact Contracts
- Behavior Contracts

Tier 3 Interventions

- Crisis Team observations and supports.
- Referral to School Based Intervention Team program
- 10-week behaviorist supports for sites with high numbers of Tier 3 needs
- Referral to Child Welfare and Attendance Counselor
- Referral to Safe Schools through the city of San José
- Parent Project
- District Level Intervention Meetings with Families and Sites

San José Unified provides a multi-tiered support system for students to proactively prevent behavior incidents from occurring, resulting in suspension and or expulsion. When a student is expelled from the San José Unified School District, the student must complete a rehabilitation plan, including 10 hours of counseling, 10 hours of community services, grade, attendance, and behavior expectations. These expectations include students attending school at least 75% of the time, a GPA of 2.0 or higher, and no behavior incidents that result in suspension. Once a student completes the rehabilitation plan, a meeting is held prior to readmittance into San José Unified with Sunol Community School Staff, San José Unified School Staff, and family to discuss student placement, interventions, and next steps to ensure a successful reentry into San José Unified. Students who fail to meet the rehabilitation plan remain at Sunol Community Day School or Non-Public School per the IEP team until they meet their rehabilitation plans; this is evaluated each semester.

San José Unified School District acknowledges the disproportionate expulsions of Hispanic males. To mitigate this data point, intervention practices are implemented to ensure the explicit teaching of expected behaviors and the use of data to determine interventions that provide access to welcoming, supportive, and safe classrooms and school campuses. The Student Services Department and site administrators work collaboratively to analyze student discipline data throughout the school year to determine interventions which address emerging trends in the data.

Educational Services for Expelled Students

Students who are expelled from San José Unified School District are referred to Sunol Community Day School through the Santa Clara County Office of Education with a rehabilitation plan. Students who are expelled and have instructional needs beyond the capacity of Sunol Community Day School are referred to Non-Public Schools through our Special Education Department and their IEP team.

Students who are on a suspended expulsion are conditionally placed at an alternative comprehensive school site. If students fail to meet the conditions of their placements, they are then referred to the Santa Clara County Office of Education, Sunol Community Day School, or an appropriate Non-Public School as determined by the special education department and IEP team.

San José Unified School District is responsible for developing a rehabilitation plan for every expelled student and ensuring that an educational program is provided and completed before students return to a comprehensive school campus.

San José Unified has identified gaps in alternative educational programs for our expelled students for students with IEPs, as non-public school options are currently limited.

Strategies for these service gaps include continued collaboration between Student Services and Special Education Departments regarding options for alternative placements that meet the needs of all students.

In 2021, the San José Unified School District identified "education of administrators" and "proper use of interventions" as educational services gaps. San José Unified has continued to work towards educating its administration by offering summer training sessions for all new and current administration around the expulsion process, training for all assistant principals of student services around expulsion and interventions, and coaching for site administration around expulsions and interventions. These strategies were successful at educating staff about processes and best practices, but more work needs to be done around the calibration of intervention practices at the sites.