

Campbell Union High School District

Plan for Expelled Youth
Spring 2018

A PLAN BETWEEN THE
CAMPBELL UNION HIGH SCHOOL DISTRICT
AND
THE SANTA CLARA COUNTY OFFICE OF EDUCATION
FOR THE IMPLEMENTATION OF
EDUCATION CODES 48916.1 AND 48926
A PLAN TO PROVIDE EDUCATIONAL SERVICES TO EXPELLED STUDENTS

Developed by the Campbell Union High School District
And the Santa Clara County Office of Education
Spring, 1997 (Originally Prepared) Spring 2018 (Revised)

Introduction

Legislation mandates a county-wide plan that identifies the educational placement for all expelled students.

The provisions of Education Code 48916.1, effective July 1, 1996, requires that a governing board refer students who are expelled pursuant to subdivisions (b) and (e) of Section 48915, to a program that:

1. Can appropriately accommodate students who exhibit discipline problems;
2. Is not provided at a comprehensive middle, junior, or senior high school; and
3. Is not housed at the school site attended by the student at the time of the expulsion.

The education code requires superintendents of the school districts within the county in conjunction with the county superintendent, to develop a plan for providing educational services to all expelled students. According to Education Code Section 48926, the plan must:

1. Identify existing educational alternatives for expelled students;
2. Identify gaps in educational services to expelled students and strategies for filling those service gaps;
3. Identify alternative placements for students who are expelled and placed in district community day schools, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a continuing danger to school safety as determined by the governing board.

Finally, Education Code Section 48916.1 requires the county board of education and the governing board of each school district within the county to: (1) adopt the plan; (2) submit the plan to the State Superintendent of Public Instruction by June 30, 1997; and (3) submit an update to the plan, including the outcome data required by Section 48916.1, every three years thereafter.

CAMPBELL UNION HIGH SCHOOL DISTRICT 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. The Campbell Union High School District will refer expelled students to the Santa Clara County Office of Education for a continuum of educational options available through their Community School programs, noted in AR 6185.

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

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). 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.

The Santa Clara County Office of Education Court and Community School program offers the following options for expelled youth: 1. Daily educational programs that meet from 240-360 minutes per day in community school classrooms; 2. Contracted study program (IS) that require students to complete a minimum of 20 hours of educational product. They also offer programs for homeless youth, foster youth and for teen parents. The Campbell Union High School District refers expelled students to the Santa Clara County community schools.

Agenda Item Details

Meeting April 19, 2018– ESUHS D REGULAR BOARD MEETING – 4:00 P.M., DISTRICT OFFICE-BOARD ROOM, 830 NORTH CAPITOL AVENUE, SAN JOSE, CA 95133

Category EDUCATIONAL SERVICES/STUDENT SERVICES – OPERATIONAL ITEMS/PUBLIC HEARING, DISCUSSION AND/OR ACTION

Subject Discussion and/or Action to Adopt East Side Union High School District’s Plan for Educational Alternatives for Expelled Youth – Glenn Vander Zee, Associate Superintendent of Educational Services, and ShaKenya Edison, Director of Student Services

Type Action, Discussion

Recommended It is recommended that the Board of Trustees adopt East Side Union High School District’s Plan for Educational Alternatives for Expelled Youth.

EAST SIDE UNION HIGH SCHOOL DISTRICT

TO: Board of Trustees

FROM: Chris D. Funk, Superintendent

PREPARED BY: Glenn Vander Zee, Associate Superintendent of Educational Services, and ShaKenya Edison, Director of Student Services

SUBJECT: Discussion and/or Action to Adopt East Side Union High School District’s Plan for Educational Alternatives for Expelled Youth

As mandated by Education Code 48926, each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled students in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

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

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled students in the county no later than June 30, 2018, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

Per Education Code 48916.1, at the time an expulsion of a student is ordered, the governing board of the school district shall ensure that an education program is provided to the student who is subject to the expulsion order for the period of the expulsion. Except for students expelled pursuant to subdivision (d) of

Section 48915 (related to the five (5) offenses mandatory for recommendation of expulsion/to expel), the governing board is required to implement the provisions of this section only to the extent funds are appropriate for this purpose in the annual Budget Act or other legislation, or both.

FISCAL IMPACT:

Not applicable

FUNDING SOURCE:

Not applicable

RECOMMENDATION:

It is recommended that the Board of Trustees adopt the East Side Union High School District's Plan for Educational Alternatives for Expelled Youth.

East Side Union High School District

ADOPTED

Board of Trustees

Aguiar 7-19-18

EAST SIDE UNION HIGH SCHOOL DISTRICT EXISTING EDUCATIONAL ALTERNATIVES FOR EXPELLED YOUTH

The District's priority is to ensure that educational opportunities are provided for all students. There is a critical need for interim placement options to avoid any disruptions of educational services for students who have been suspended and are pending expulsion proceedings.

Pending expulsion proceedings, students will immediately be referred to an appropriate interim placement at the community day school or an alternative program. Appropriate interim placement will be determined based on consideration of any health or safety issues, grade level, academic progress, and access to transportation.

Only East Side Union High School District's Board of Trustees ("the Board") has the authority to expel a student based on California Education Code violation(s). The Board will approve the following types of expulsion orders depending on the specific violation(s):

- 1) suspended expulsion with placement on a different comprehensive high school campus within the District;
- 2) suspended expulsion with placement at a continuation school or alternative program;
- 3) suspended expulsion with voluntary placement in the Independent Studies program, if the parent agrees;
- 4) expulsion with District release to the County's Community Day School for the duration of the expulsion period;

Recommendations for expulsion and placement are made to the Board, by the three-member Administrative Hearing Panel ("the Panel"). The Panel's recommendations take into account the following factors:

- severity, frequency, and impact of the Education Code violation(s)
- age of the student
- the student's academic and attendance effort
- the student's discipline history
- assignment and receipt of appropriate interventions and consequences
- educational strengths and needs of the student, and
- active involvement and participation of parent(s)/guardian(s) in the rehabilitation program of their student

The final decision to expel a student is made by the East Side Union High School District Board of Trustees based on the California Education Code.

Best practices

All students going through the expulsion process are afforded "Due Process" in compliance with the California Education Code. The District is careful to ensure that Administrative Hearing Panels are reflective to students' ethnic background. Parents are also informed of the availability of interpretation services, if needed. All legal notices are provided in the parents' primary language.

COUNTY AND DISTRICT GAPS AND STRATEGIES IN EDUCATION SERVICES

There are three 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. A student who has been expelled from the District under Education Code Section 48915 and referred to a County operated Community School program could commit another Education Code violation and ultimately be referred back to the original district.

District Strategy for Addressing This Gap:

- Students who have failed their placement in County Community Day School will be referred to the district for placements, as there are no other programs offered through the county.
2. Students who have failed their placement in Community Day School may be referred to another County operated program, if it exists. So few students are expelled that having a special class or program for such students located in our district is not financially or geographically possible should the student fail the program or commit another expellable offense during the course of a school year.

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 Community Day School program.
 - District will continue to use existing educational strategies and programs to meet the needs of expelled students.
3. Meeting the needs of expelled students placed in a Community Day School who fail to meet the terms or conditions of their rehabilitation plan or who pose a danger to other District pupils:

County / District Strategy for Addressing This Gap:

- The East Side Union High School District 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.
- 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 or the Santa Clara County Office of Education Community School system. Expelled students referred to a Community School will be provided an Individual Learning Plan developed in consultation with the student, the student's family and the Community School staff. Part of this plan may include a goal of returning the student to the East Side Union High School District after the District expulsion term. If the student fails the County-operated program, the student will be referred back to the District for possible review and re-assignment.

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

JUNE 1, 2018

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 service and the County Office of Education offers additional options. This combination provides a continuum of alternatives to expelled students.

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

COUNTY OFFICE OF EDUCATION OVERVIEW

The Santa Clara County Office of Education will continue to provide an educational option for expelled students. This program is one that fits 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. The Los Gatos-Saratoga Joint Union High School district will use the Santa Clara County program as an educational option for those students expelled under a district "no-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.

COUNTY EXISTING EDUCATIONAL ALTERNATIVES 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 meet for 240-300 minutes per day in community classrooms;
- 2) contracted study programs that require students to complete a minimum of 20 hours of educational product and a minimum of 10 hours of in-class assignments;
- 3) contracted study programs (IS) that require students to complete a minimum of 20 hours of educational product.
- 4) homeless
- 5) teen parent program
- 6) special site names (examples)
 - a. Sunol Community Day School formerly Foundry Community School
 - b. Santa Clara Community School now part of Santa Clara Unified

DISTRICT EXISTING EDUCATION ALTERNATIVES FOR EXPELLED YOUTH

Los Gatos-Saratoga Joint 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 JOINT 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. 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.

District strategy for addressing this gap:

- Alternative or continuation options will be made available.
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 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:

- A 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 this district.

County/District strategy for addressing this gap:

- A regional program may be developed to reflect geographical or limited numbers.

5. There are significant geographical distances between local small districts, thus district or county operated classroom sites/programs for small school district 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:

- A regional program may be developed to reflect geographical or limited numbers.

6. 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 student 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 record logs 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;
- 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.

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.

LOS GATOS SARATOGA UNION HIGH SCHOOL DISTRICT AND THE
SANTA CLARA COUNTY OFFICE OF EDUCATION
PLAN FOR EXPELLED YOUTH:

EDUCATION CODE § 48926

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.

EDUCATION CODE § 48916.1

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).



Mountain View Los Altos High School District

2018-2021

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

APPROVED BY BOARD OF TRUSTEES: May 7, 2018



MOUNTAIN VIEW LOS ALTOS HIGH SCHOOL DISTRICT

HIGH SCHOOL DISTRICT

Serving the communities of Mountain View,
Los Altos and Los Altos Hills

BOARD OF TRUSTEES

Phil Faillace, Ph.D.
Joe Mitchner
Susan Sweeley
Debbie Torok
Fiona Walter

SUPERINTENDENT

Jeff Harding, Ed.D.

May 7, 2018

Santa Clara County Office of Education
1290 Ridder Park Drive
San Jose, CA 95131

To Whom It May Concern:

At a meeting held on May 7, 2018, the Mountain View Los Altos High 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.

Sincerely,

Jeff Harding, Ed.D.
Superintendent

Enclosure: Expulsion Plan 2018-2021



1299 Bryant Avenue, Mountain View, California 94040-4599

Phone: (650)940-4650

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 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. Administration has been trained in restorative practices that are utilized when working with students.
- f. Saturday School is assigned to students as part of the progressive discipline steps.
- g. Assistant Principals and Student Services Coordinators work with a caseload of high-need students to offer support and to work with families.
- h. In cases where students need a smaller, self-contained setting, second-semester 9th graders and 10th graders may be recommended to transfer to Alta Vista Opportunity Program for the duration of the school year.
- i. Mental Health Therapists (CHAC/CHC/on-site) are available to meet with students who have been referred by others or self.
- j. School Resource Officers (SRO) are assigned at each school and work with administration to support students.
- k. SARB meetings are held to address the attendance truancy needs of students
- l. Students from all grade levels participate in Challenge Day which fosters interconnectedness among various student groups on campus

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

1. Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
2. Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).
3. Expulsion with placement in the District Alta Vista Opportunity Program, Education Code 48660.
4. Expulsion with placement in the Moffet Independent Study Program, Education Code 48660.
5. Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.

Districtwide gaps in educational services to expelled youth.

1. Since our last plan submission, the County Terra Bella program closed and there was no longer an option for younger students who struggled at the comprehensive schools due to behavior. Placing 9th and 10th graders at the Alta Vista Alternative High School was not a good fit for students. In addition, the courses that 9th and 10th grade students required were not part of the available coursework. The Alta Vista Opportunity (AVO) Program opened in 2016-17 which provides a small, self contained setting for younger students. The goal is to provide individualized support so that students may return to the comprehensive sites or transition to Alta Vista High School if recommended.
2. Although the AVO Program serves the needs of younger students, including those with IEPs, we continue to struggle with placing older students that possess an IEP and require specialized instruction in the core areas. Supporting the student who struggles academically, socially and behaviorally, becomes even more challenging when there is an attendance truancy issue. In addition, when multiple students are involved in the same incident, there are not enough alternate locations to distribute students given that we have only three schools in our district. Students with IEPs that are in need of behavioral and therapeutic services are often referred to Non-Public School (NPS) which provides flexibility, however, this approach can deem costly for the district. We will continue working with the County to identify appropriate placements for students, particularly student with IEPs.
3. 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.

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 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.

(cf. 5144 - Discipline)

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 administrative regulation.

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)

(cf. 5145.6 - Parental Notifications)

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

Zero Tolerance

The Board takes a zero tolerance approach to serious offenses. This approach makes the removal of potentially dangerous students from the classroom a top priority. It ensures fair and equal treatment of all students. Staff shall immediately report to the Superintendent any occurrence of an offense specified in law, Board policy or administrative regulation as cause for suspension or expulsion.

The Superintendent shall notify staff, students and parents/guardians about the district's zero tolerance policy and the consequences which may result from student offenses. He/she shall also ensure enforcement of this policy.

Student Due Process

The Board shall provide for the fair treatment of students facing suspension and expulsion by affording them 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. (Education Codes 48911, 48915 and 48915.5)

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. (Education Code 48914)

(cf. 3514 - Safety)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process - Individuals with Exceptional Needs)
Decision not to Enforce Expulsion Order

In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law.

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence reduction

1981 Enrollment of students

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985 35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools) 35291.5 Rules and procedures on school discipline 48660-48666 Community day schools

48900-48926 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act (re closed sessions) 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 defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery fines

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

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

UNITED STATES CODE, TITLE 20

7151 Gun free schools

COURT DECISIONS

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, 308

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 347 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

CDE PROGRAM ADVISORIES

0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

WEB SITES

CDE: <http://www.cde.ca.gov>

CSBA: <http://www.csba.org>

Policy MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT

adopted: October 23, 1995 Mountain View, California

revised: August 25, 1997

revised: May 11, 1998

revised: October 14, 2002

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 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 as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five schooldays.

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)

Schoolday means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (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, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment. (Education Code 35291.5)

(cf. 5144 - Discipline)

Notification shall include information about the ongoing availability of individual school rules and all district policies and regulations pertaining to student discipline. (Education Code 35291)

(cf. 5145.6 - Parental Notifications) Grounds for Suspension and Expulsion

Students may be subject to suspension or expulsion for committing any of the acts listed below. Except in cases where suspension for a first offense is warranted in accordance with law, suspension or expulsion shall be imposed only when other means of correction have failed to bring about proper conduct.

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. (Education Code 48900(a))

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's concurrence. (Education Code 48900(b))

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance as defined in the Health and Safety Code 11053 et seq., 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 et seq., 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, alcohol 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 Section 11014.5 of the Health and Safety Code. (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(l))

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 (Education Code 48900(m))

14. Committed sexual harassment as defined in Education Code 212.5, or Board Policy (Education Code 48900.2)

(cf. 5145.7 - Sexual Harassment)

15. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 33032.5. (Education Code 48900.3)

16. Intentionally harassed, threatened or intimidated a student or group of students to the extent of having the actual or reasonably expected effect of materially disrupting classwork, creating substantial disorder, or

invading student rights by creating an intimidating or hostile educational environment. (Education Code 48900.4)

17. Engaged in, or attempted to engage in, hazing as defined in Education Code 48900(q). (Education Code 48900(q))

18. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that student from being a witness or retaliating against that student for being a witness, or both (Education Code 48900(o))

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

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 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 may be used with students who are truant, tardy, or otherwise absent from assigned school activities. (Education Code 48900)

(cf. 5113 - Absences and Excuses)

Suspension from Class by a Teacher/Parental Attendance

A teacher may suspend any student from the teacher's class 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 requests.

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. (Education Code 48910)

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. (Education Code 48910)

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. (Education Code 48913) Suspension by Superintendent or Principal

The Superintendent or principal may suspend a student from a 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)

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's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. 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 #17 under "Grounds for Suspension and Expulsion" above.

Suspension also may be imposed upon a first offense if the Superintendent or principal determines 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)

Repeated violations involving harassment, hate crimes, or intimidation, where the inappropriate conduct has not ceased after repeated warnings or interventions, require the principal to request an expulsion hearing with the Board. (See items 14, 15, 16, 17, and 18 under "Grounds for Suspension and Expulsion".)

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, 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, 48912)

1. Informal Conference

Suspension shall be preceded by an informal conference conducted by the principal 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; he/she shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911(b))

This conference may be omitted if the principal 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 presuspension 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. (Education Code 48911(c))

2. Administrative Actions

All requests for student suspension are to be processed by the principal 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.

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 requests 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. (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 conference. The student may not be denied readmission solely because the parent/guardian failed to attend. (Education Code 48911)

5. 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, the Superintendent may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911(g))

When consideration is given to the possible extension of a suspension, the student and his/her parents/guardians must be so informed during the conference that is held at the time when the student is suspended. Only the Superintendent may extend a suspension until the time of a scheduled expulsion hearing. Such an extension will be issued only in cases where the principal has reason to believe 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) 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 students 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.

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 Principal" 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 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.

The Board shall provide the student with written notice of the closed session by certified mail. Upon receiving this notice, the student 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 48912, 35146)

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 certain offenses listed below under "Mandatory Recommendation and Mandatory Expulsion."

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 principal, Superintendent, hearing officer or administrative panel, based on finding 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.

(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities)) Mandatory Recommendation for Expulsion

Unless the principal or Superintendent finds that expulsion is inappropriate due to particular circumstances, the principal or Superintendent 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.

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawful possession of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for 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 principal or Superintendent 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, 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 Item #17 under "Grounds for Suspension and Expulsion" above.

Upon finding that the student committed any of these acts, the Board shall expel the student.
Student's Right to Expulsion Hearing (Education Code 48918(a))

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 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 impractical to comply with these time requirements for conducting an expulsion hearing, the Superintendent 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. (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 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 all the following: (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 in 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 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 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).

(cf. 5119 - Students Expelled from Other Districts)

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

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, and the counsel of the student shall also 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, so long as a reasonably accurate written and complete 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 for the personal appearance at the hearing of any person who actually witnessed the events 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 11525. (Education Code 48918(i))

Any objection raised by the student or the Superintendent 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: 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 acts listed in "Grounds for Suspension and Expulsion."

Findings of fact shall be based solely on the evidence at the hearing. While no decision 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 48918 (f) and (h) and John A. v. San Bernardino School District)

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

(cf. 5145.12 - Search and Seizure)

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)

- 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 according to 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 Within 10 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 Days: The Board's 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 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 as apply to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing."

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. The Superintendent 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. (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))

The hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (See "Suspension of Enforcement of the 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. (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 must be taken by the Board at a public meeting. (Education Code 48918(i)) The Board shall maintain a record of each expulsion, including its cause. Expulsion records shall be nonprivileged, disclosable public records. (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 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. (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 of the student at the time of review for readmission
2. Recommendations for improved academic performance, tutoring, job training, counseling, employment, community service and other rehabilitative 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. (Education Code 48916.5)

Written Notice to Expel

The Superintendent 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(a)-(o), Education Code 48900.2-48900.4 and Education Code 48915(c) (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)

Suspension of Enforcement of the Expulsion

The Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year. Expulsion orders shall not be suspended in cases of mandatory expulsions. In making the decision to suspend the enforcement of an expulsion, the Board shall take the following into consideration:

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.

The suspension of the enforcement of an expulsion shall be governed by the following: (Education Code 48917)

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.

2. During the period of the suspension of the expulsion order, the student shall be on probationary status.

3. 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.

4. When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school.

6. 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.

7. The Superintendent 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. (Education Code 48918(i))

Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board. (Education Code 48919)

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.

Post-Expulsion Placements

The Board shall refer expelled students to a program of study that meets all the following conditions: (Education Code 48915)

1. Is appropriately prepared to accommodate students 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 student at the time of suspension

(cf. 6185 - Community Day School)

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for acts described in items #6 through #16 under "Grounds for Suspension and Expulsion" 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.

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)

Students expelled from grades 7-12 may be offered independent study as a voluntary alternative to available classroom instruction; however, the student's parent/guardian must first provide written consent for this option. (Education Code 48916.1)

(cf. 6158 - Independent Study)

Readmission After Expulsion

Readmission procedures shall be as follows:

1. When the Board orders an expulsion, it shall state a date when the student shall become eligible for consideration for readmission to the district.
2. The Superintendent 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 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 state in writing their willingness to comply with these regulations.
3. The Superintendent shall transmit his/her recommendation regarding readmission to the Board. 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. The Superintendent shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission 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 cause thereof. 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. (Education Code 48918(j))

The Superintendent 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) (cf. 5125 - Student Records)

Notifications and Reports (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal 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 shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal 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.

Outcome Data

The Superintendent shall maintain the following data and report such annually to the California Department of Education, using forms supplied by the California Department of Education: (Education Code 48916.1)

1. The number of students recommended for expulsion
2. The grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

Regulation MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT approved: October 23, 1995 Mountain View, California

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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 disabilities pursuant to the Individuals with Disabilities Education Act is subject to the same grounds for suspension and expulsion which apply to regular education students.

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

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

A student who has not been identified as an individual with disabilities pursuant to IDEA and who has violated the district's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the district had knowledge that the student was disabled before the behavior occurred. (20 USC 1415)

The district shall be deemed to have knowledge that the student had a disability if one of the following conditions exist: (20 USC 1415)

1. The parent/guardian has expressed concern in writing that the student is in need of special education or related services
2. The behavior or performance of the student demonstrates the need for such services
3. The parent/guardian has requested an evaluation of the student for special education

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

4. The teacher, Director of Special Education or other district personnel has expressed concern about the behavior or performance of the student to other district personnel

If it is determined that the district did not have knowledge that the student was disabled, then the student shall be disciplined in accordance with procedures established for students without disabilities. (20 USC 1415)

Suspension

The Superintendent may suspend a student with disability for up to five school days for a single incident of misconduct, and for up to 20 school days in a school year. If the student is transferred to another school or alternative educational program, the student may be

suspended for up to 30 school days in a school year, but still no more than five days for a single incident of misconduct, unless the student is suspended by the Board pursuant to Education Code 48912. (Education Code 48903, 48911)

If the student poses an immediate threat to the safety of himself/herself or others, the Superintendent may suspend the student for up to, but not more than, 10 consecutive school days. (Education Code 48903, 48911)

Students suspended for more than 10 school days shall continue to receive a free and appropriate public education during the term of the suspension.

Interim Alternative Placement Due to Dangerous Behavior

A student with a disability may be placed in an appropriate interim alternative educational setting when he/she commits one of the following acts: (20 USC 1415)

1. Carries a weapon, as defined in 18 USC 930, to school or to a school function
2. Knowingly possesses or uses illegal drugs while at school or a school function
3. Sells or solicits the sale of a controlled substance while at school or a school function

A hearing officer may order a change in placement of a student with a disability to an appropriate interim educational setting if the hearing officer: (20 USC 1415)

1. Determines that the district has established by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others
2. Considers the appropriateness of the student's current placement
3. Considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services
4. Determines that the interim alternative educational setting allows the student to participate in general curriculum, to continue to receive IEP services and to receive services designed to ensure that the behavior does not recur

The student may not be placed in the interim alternative educational setting for more than 45 days, or until the conclusion of any due process hearing proceedings requested by the parent/guardian. (20 USC 1415)

The student's alternative educational setting shall be determined by the student's individualized educational program (IEP) team. (20 USC 1415)

(cf. 6159 - Individualized Education Program) Procedural Safeguards/Manifestation Determination

Either before or not later than 10 days after a student has been suspended for more than 10 days or placed in an alternative educational setting, the district shall convene an IEP team meeting to conduct a functional behavior assessment and implement a behavioral intervention plan. If the student already has a behavioral intervention plan, the IEP team shall review the plan and modify it as necessary to address the behavior. (20 USC 1415)

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

The following procedural safeguards shall apply when a student is suspended for more than 10 days, when disciplinary action is contemplated for a dangerous behavior as described above, or when an change of placement of more than 10 days is contemplated: (20 USC 1415)

1. The parents/guardians of the student shall be immediately notified of the decision and all procedural safeguards on the day the decision to take action is made.
2. No later than 10 school days after the date of the decision, a manifestation determination shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action by the IEP team.

At this hearing, the IEP team shall consider:

- a. Evaluation and diagnostic results
- b. Observations of the student
- c. The student's IEP placement

The team shall then determine whether the IEP and placement were appropriate; supplementary aids services, and behavioral interventions were provided; and that the student understood and could control his/her behavior. (20 USC 1415)

If the team determines that the student's behavior was not a manifestation of his/her disability, then the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415)

If the team determines that the student's behavior was a manifestation of his/her disability, then the student's placement may only be changed via the IEP team process. (20 USC 1415)

Pre-Expulsion Assessment and Meeting

Procedures and timelines governing the expulsion of students with disabilities shall be the same as those for all other students, except that a pre-expulsion assessment shall be made and an IEP team manifestation determination and a meeting held under conditions and with possible consequences indicated below.

1. The parent/guardian shall receive written notice of the district's intent to conduct the pre-expulsion assessment and shall make the student available for the assessment without

delay at a site designated by the district. The parent/guardian shall also have the right to an independent assessment as provided in Education Code 56329. (Education Code 48915.5)

2. The pre-expulsion assessment shall be conducted in accordance with the guidelines of the 34 CFR 104.35, which shall include a review of the student's placement at the time of the alleged misconduct and a determination of the relationship, if any, between the student's behavior and his/her disability. (Education Code 48915.5)

3. The IEP team shall meet to determine if an expulsion hearing is appropriate. This meeting shall be held at a time and place mutually convenient to the parent/guardian and district within the period, if any, of the student's pre-expulsion suspension. The parent/guardian's participation may be made through actual participation, representation, or a telephone conference call. (Education Code 48915.5)

(cf. 6159 - Individualized Education Program)

(cf. 6164.5 - Identification and Education under Section 504)

4. The parent/guardian shall be notified of his/her right to participate in the meeting at least 48 hours before the meeting. This notice shall specify: (Education Code 48915.5)

a. That the meeting may be held without the parent/guardian's participation unless he/she requests a postponement for up to three additional school days

b. That the suspension will be continued during the postponement if the student continues to pose an immediate threat to the safety of himself/herself or others

In order to make a record of its attempts to arrange the meeting at a mutually convenient time and place, the

district shall keep documentation such as: (34 CFR 300.345)

a. Records of telephone calls made or attempted and the results of those calls.

b. Copies of correspondence sent to parents/guardians and any responses received.

c. Records of visits made to the parent/guardian's home or place of employment and the results of those visits.

5. The district shall grant a parent/guardian's request that the meeting be postponed for up to three additional school days and may extend a student's suspension for the period of postponement if he/she continues to pose an immediate threat to the safety of himself/herself or others. However, the suspension shall not be extended beyond 10 consecutive school days unless agreed to by the parent/guardian or by court order. If the parent/guardian refuses to consent to an extension beyond 10 consecutive school days and chooses not to participate, the

meeting may be conducted without the parent/guardian's participation. (Education Code 48915.5)

6. The IEP team shall consider the pre-expulsion assessment results and shall also review and consider the student's health records and school discipline records. (Education Code 48915.5)

7. If the IEP team determines that the alleged misconduct was caused by, or was a direct manifestation of, the student's disability or that the student was not appropriately placed, the expulsion shall not proceed. (Education Code 48915.5)

8. If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the student's disability, and if it is determined that the student was appropriately placed, the student shall be subject to expulsion in accordance with procedures that apply to all students. (Education Code 48915.5)

9. When expulsion is ordered, the Board shall recommend a rehabilitation plan for the student. (Education Code 48916)

Due Process and Expulsion Hearings

If the parent/guardian disagrees with a decision that the behavior was not a manifestation of the student's disability or with any decision regarding placement, he/she has a right to a due process hearing conducted pursuant to United States Code, Title 20, Section 1415 or the Code of Federal Regulations, Title 34, Section 104.36.

Due process appeals must be initiated within 15 days of the decision of the IEP team.

The expulsion hearing shall not be conducted, and the 30-day expulsion proceedings time limit shall not commence, until after completion of:

1. The pre-expulsion assessment and the manifestation determination (Education Code 48915.5, 20 USC 1415)
2. The IEP team meeting (Education Code 48915.5)
3. Due process hearings and appeals, if initiated (Education Code 48915.5)

The Board may expel a student with disability only if an IEP team has determined that the misconduct was not caused by, or a direct manifestation of, the student's identified disability, and the student was

appropriately placed at the time the misconduct occurred. (Education Code 48915.5) Services During Expulsion

During the term of the expulsion, a student with a disability shall continue to be offered a program of free and appropriate public education. Such services may include independent study, home instruction, or another appropriate alternative program.

(cf. 6158 - Independent Study)

(cf. 6183 - Home and Hospital Instruction) Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. The Superintendent may consider the input of the student's IEP team when developing recommendations to the Board regarding a request for readmission. Upon readmission, an IEP team meeting shall be convened to determine whether a new IEP needs to be established.

Suspension of Expulsion

The 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 regular students.
(Education Code 48917)

Legal Reference:

EDUCATION CODE

35146 Closed sessions (re suspensions)

35291 Rules (of governing board)

48900-48925 Suspension and expulsion

56320 Educational needs; requirements

56321 Development or revision of individualized education program

56329 Independent educational assessment

56340-56347 Individual education program teams

56505 State hearing

PENAL CODE

626.2 Unauthorized entry on campus after written notice of suspension or dismissal UNITED STATES CODE, TITLE 18

930 Weapons

UNITED STATES CODE, TITLE 20

1412 State eligibility

1415 Procedural safeguards

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

300.345 Parent participation

Honig v. Doe, (1988) 484 U.S. 305

Doe v. Maher, (1986) 793 F.2d 1470

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) U.S. Dist. Ct., S.D. Cal. 858 F.Supp. 1044

**Rock Island School District #41, IDELR 353:364 San Juan Unified School District, 20 IDELR 549
Management Resources:**

CDE LEGAL ADVISORIES

0123.91 Clarification of Education Code Amendments, LO: 1-91

0623.89 Suspension and Expulsion of Handicapped Pupils, LO: 3-89

CDE PROGRAM ADVISORIES

**0122.90 Suspension and Expulsion Procedures for Individuals with Exceptional Needs,
SPB:89/90-9 Regulation MOUNTAIN VIEW-LOS ALTOS UNION HIGH SCHOOL DISTRICT**

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