

SUSPENSION & EXPULSION/DUE PROCESS

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion. (cf. [5131](#) - Conduct)

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

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

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

(cf. [5112.5](#) - Open/Closed Campus)

4. During, going to, or coming from a school-sponsored activity

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

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code [48900](#)(a)-(e), as listed in items #1-5 under *Grounds for Suspension and Expulsion: Grades K-12* of the accompanying administrative regulation, or when their presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#), [48900.6](#)) (cf. [5144](#) - Discipline)

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

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

(cf. [5113](#) - Absences and Excuses) (cf. [5113.1](#) - Chronic Absence and Truancy)

Authority to Expel

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

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code [48915](#))

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (cf. [5131.7](#) - Weapons and Dangerous Instruments)
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)
5. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)
6. Possessing an explosive as defined in 18 USC [921](#)

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code [48915\(b\)](#) and (e))

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

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

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

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

Due Process

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

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

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

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

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

[212.5](#) Sexual harassment

[233](#) Hate violence

[1981-1981.5](#) Enrollment of students in community school

[8239.1](#) Prohibition against expulsion of preschool student

[17292.5](#) Program for expelled students

[32261](#) Interagency School Safety Demonstration Act of 1985

[35145](#) Open board meetings

[35146](#) Closed sessions (regarding suspensions)

[35291](#) Rules (for government and discipline of schools)

[35291.5](#) Rules and procedures on school discipline

[48645.5](#) Readmission; contact with juvenile justice system

[48660-48666](#) Community day schools

[48853.5](#) Foster youth

[48900-48927](#) Suspension and expulsion

[48950](#) Speech and other communication

[48980](#) Parental notifications

[49073-49079](#) Privacy of student records

[52052](#) Numerically significant student subgroups

[52060-52077](#) Local control and accountability plan

[64000-64001](#) Consolidated application

CIVIL CODE

[47](#) Privileged communication

[48.8](#) Defamation liability

CODE OF CIVIL PROCEDURE

[1985-1997](#) Subpoenas; means of production

GOVERNMENT CODE

[11455.20](#) Contempt

[54950-54963](#) Ralph M. Brown Act

HEALTH AND SAFETY CODE

[11014.5](#) Drug paraphernalia

[11053-11058](#) Standards and schedules

LABOR CODE

[230.7](#) Employee time off to appear in school on behalf of a child

PENAL CODE

[31](#) Principal of a crime, defined

[240](#) Assault defined

[241.2](#) Assault fines

[242](#) Battery defined

[243.2](#) Battery on school property

[243.4](#) Sexual battery

[245](#) Assault with deadly weapon

[245.6](#) Hazing

[261](#) Rape defined

[266c](#) Unlawful sexual intercourse

[286](#) Sodomy defined

[288](#) Lewd or lascivious acts with child under age 14

[288a](#) Oral copulation

[289](#) Penetration of genital or anal openings

[417.27](#) Laser pointers

[422.55](#) Hate crime defined

[422.6](#) Interference with exercise of civil rights

[422.7](#) Aggravating factors for punishment

[422.75](#) Enhanced penalties for hate crimes

[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission

[626.9](#) Gun-Free School Zone Act of 1995

[626.10](#) Dirks, daggers, knives, razors, or stun guns

[868.5](#) Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

[729.6](#) Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

[1415\(K\)](#) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

[11432-11435](#) Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

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

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

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

80 Ops.Cal.Atty.Gen. 348 (1997)

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

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

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

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

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

U.S. Department of Education, Office for Civil

Rights: <http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Healthy

Students: <http://www2.ed.gov/about/offices/list/oese/oshs>

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