

Student Conduct and Discipline

Board of Education Statement

The following information is intended to familiarize the readers with the rules regarding student conduct and discipline, truancy, detention, suspension, and expulsion as defined by state law and as applied in the Mt. Diablo Unified School District. For further information refer to the Board of Education policy statement in “Policies, Rules and Bylaws.” These books are located in all schools and at the Dent Education Center.

In the process of developing rules regarding student conduct and discipline, the personnel of the Mt. Diablo Unified School District shall be guided by the following general policy statements:

- Rules of conduct and disciplinary procedures shall be consistent with state and federal law and with the rules prescribed by the State Board of Education.
- District personnel shall implement state and federal law and district policy.
- The staff of each school and of each special program shall develop and/or review annually rules appropriate to the needs of the local school site. They shall also establish a due process procedure which shall include the right of appeal.
- It shall be the responsibility of the staff of each school to inform students and parents/guardians of the rules.
- Rules and regulations dealing with discipline policy shall be distributed to students, teachers, and parents/guardians at the beginning of each school year or at the time of enrollment for students who enter during the school year.
- The administration shall be responsible for the maintenance of good discipline at the school site or wherever students are participating in school-related activities. School district employees shall assume responsibility for the enforcement of the established rules.
- Corporal punishment shall not be administered to a pupil by employees of the Mt. Diablo Unified School District.

Special Education Students

Any student with an IEP has specific Procedural Safeguards regarding Student Conduct & Discipline. Contact the Special Education or Student Services department with questions pertaining to these rights, at 682-8000, ext. 4069.

Alternatives to Suspensions

State law provides that suspension should be imposed only when other means of correction fail to bring about proper conduct. Effective January 1, 2013, AB 1729 and revision of EC 48900.5 further directs that suspension will not be utilized for first time offenses, except for violations of EC 48900(a) – (e), unless the principal determines that the student poses a threat to persons. The law further directs that schools document “other means of correction” and that parents/guardians be provided with a copy of that documentation.

The following suggestions are being provided for use by school communities as specific Alternatives To Suspension for the 1st time offenses or repeat offenses that school staff determines can be addressed appropriately without resorting to suspension. This list is not intended to be all inclusive since resources and site-based strategies vary between school sites –

- ❖ Conference with Student and Teacher
- ❖ Conference with Student, Teacher & Administrator
- ❖ Conference with Students, Teacher, Administrator and Parent/guardian
- ❖ Student Success Team (SST) Referral
- ❖ Short-term In-School Counseling
- ❖ Positive Behavior Intervention and Support strategies in school day
- ❖ Behavior Support Plan
- ❖ Peer Mediation
- ❖ Referral to Mentoring Program
- ❖ Referral to Positive Behavior Team (PBT)
- ❖ Referral to City Agency or Community Provider

However, **a student can be suspended on a first offense without other means of correction** if (1) suspension is required by law 48915(a) or 48915(c); (2) the student has committed an offense listed in EC 48900(a), (b), (c), (d), or (e); or (3) the principal determines that the pupil’s presence causes a danger to persons.

Because suspensions result in the loss of valuable academic learning time, parents/guardians are strongly urged to review all disciplinary guidelines with their child to be sure that they fully understand the expectations and the serious consequences for

violating them.

Definition of Terms

Suspension

Suspension is the temporary removal or exclusion for adjustment purposes of a pupil from ongoing classroom instruction or from school as initiated by a teacher or administrator. Suspension from school is designated an unexcused absence. As such, students do not have the right to make up work or tests missed during the period of suspension.

A student shall be suspended when other means of correction fail or when the student's continued presence is likely to be dangerous to persons or property or disruptive to the instructional process.

Truancy

Students shall be classified as truant if they are absent from school without a valid excuse on 3 days in one school year or tardy in excess of 30 minutes without a valid excuse on 3 occasions in one school year. (School absence includes missing any single class period within the school day.) Any student who is truant or irregular in attendance at school may be referred to the Mt. Diablo School Attendance Review Board for a hearing. If the matter is not resolved at this level, students and parents/guardians may be referred to appropriate county agencies, the District Attorney and/or Juvenile or Municipal Court.

Expulsion

Expulsion is defined as the removal of a student from all regular schools and programs in the district and from all regular school activities by order of the Board of Education. All expelled students are provided with an appropriate educational program during the period of expulsion.

Grounds for Disciplinary Action

Causes for Suspension and/or Expulsion

A pupil shall not be suspended from school nor a request be made for expulsion unless the principal determines that the pupil has committed a violation listed under:

Education Code 48900

- (a) (1). Caused, attempted to cause, or threatened to cause physical injury to another person.
(2). Willfully used force or violence upon the person of another, except in self-defense.
- (b). Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred by the principal or the designee of the principal.
- (c). Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d). Unlawfully offered, arranged, or negotiated to sell any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e). Committed or attempted to commit robbery or extortion.
- (f). Caused or attempted to cause damage to school property or private property, including, but not limited to electronic files and databases.
- (g). Stole or attempted to steal school property or private property, including, but not limited to electronic files and databases.
- (h). Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
- (i). Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j). Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k). Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
Pursuant to (k), the principal or principal's designee may suspend a pupil for other causes including:
 - (1). Falsely reporting that a bomb or other explosives have been placed in school buildings or on school grounds.
 - (2). Trespassing or making a forced entry to school buildings.
 - (3). When a pupil is present without prior valid permission on the campus of a school, other than that in which the pupil is enrolled.
 - (4). Possession of any electronic listening or recording device (beepers, pagers) without prior consent of the principal or

his/her designee. No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician to be essential for the health of the pupil.

- (l). Knowingly received stolen school property or private property.
- (m). Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (n). Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289 or committed a sexual battery as defined by Penal Code 243.4.
- (o). Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness or both.
- (p). Unlawfully offered/arranged to sell, negotiated to sell/ sold the prescribed drug Soma.
- (q). Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, hazing means a method of initiation or pre-initiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.
- (r). Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings. “Bullying” means any severe or pervasive physical or verbal act or conduct, including communication made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - (1). Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.
 - (2). Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
 - (3). Causing a reasonable pupil to experience substantial interference with his or her academic performance.
 - (4). Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.
 - (5). “Electronic act” means the transmission of a communication, including, but not limited to, a message, text, sound, or image, or a post on a social network Internet Web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone or other wireless communication device, computer, or pager.
 - (6). “Reasonable pupil” means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.
- (s). Aided or abetted in the physical injury of another person, as defined by Penal Code, Section 31. For purposes of this subdivision, aided or abetted means the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

Education Code 48900.2

Committed sexual harassment as defined in Education Code 212.5, provided that the conduct is considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the victim’s academic performance or to create an intimidating, hostile or offensive educational environment. This ground for suspension/expulsion shall not apply to students enrolled in kindergarten or grades one through three.

Education Code 48900.3

Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in subdivision (e) of Section 233 of the Education Code. This subdivision shall not apply to pupils enrolled in kindergarten or grades one through three.

Education Code 48900.4

Intentionally engaged in harassment, threats, or intimidation, directed against students or employees, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of that pupil or group of pupils by creating an intimidating or hostile educational environment. This subdivision shall not apply to pupils enrolled in kindergarten or grade one through three.

Education Code 48900.7

Made terrorist threats against school officials or school property, or both.

Mandatory Recommendations for Expulsion Education Code 48915(a)

The principal shall suspend and recommend a pupil’s expulsion for any of the following five (5) acts unless the principal finds that expulsion is inappropriate due to the particular circumstance.

1. Caused serious physical injury to another person, except in self-defense.
2. Possessed any knife or other dangerous object of no reasonable use to the pupil.

3. Unlawfully possessed 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 avoirdupois ounce of marijuana, other than concentrated cannabis.
4. Committed robbery or extortion.
5. Assault or battery, as defined in Sections 240 and 242 of the Penal code, upon any school employee.

Education Code 48915(c)

The principal shall immediately suspend and shall recommend the expulsion of any pupil determined to have committed any of the following acts at school or at a school activity off school grounds:

1. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.
2. Brandishing a knife at another person.
3. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code. Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
4. Possession of an explosive, as defined by Education Code 48915(h).

The governing board shall expel that pupil and refer the pupil to a program of study that is appropriately prepared to accommodate students who exhibit discipline problems, is not located at a comprehensive middle, junior or senior high school, or any elementary school and is not housed at the school site attended by the pupil at the time of suspension.

Liability of Parent/Guardian for Willful Student Misconduct 48904(b)(3)

Education Code section 48904(a)(1) provides that the parent/guardian of a minor is liable for all damages caused by the willful misconduct of the minor that results in the injury or death or any pupil, school district employee, or school volunteer. The parent/guardian is also liable for damages to real or personal property belonging to the school district, or personal property belonging to a school employee, resulting from the willful misconduct of the minor. The liability of the parent/guardian is limited to \$10,000, adjusted annually for inflation.

Authority to Invoke Disciplinary Action

Teacher

1. A teacher may suspend any pupil from his/her class for any of the acts listed in Education Code, Section 48900.
2. Elementary teachers may suspend students from self-contained classrooms for the remainder of the day and one additional school day.
3. Elementary teachers teaching in non-self-contained classes may suspend a student for the remainder of the period(s) and one additional teaching period(s) if the student is under their direct supervision the next school day.
4. Secondary teachers may suspend a student for the remainder of the period(s) and one additional teaching period(s) if the student is under their direct supervision the next school day.
5. A teacher may also refer a pupil to the principal for consideration of a suspension from the school.
6. A teacher may require that a parent or guardian of a pupil, who has been suspended by a teacher for reasons of having committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied the valid authority of the teacher, attend a portion of a school day in his or her child's class. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.
7. A parent or guardian may be required to attend his or her child's class no more than four (4) times per school year.
8. The parent or guardian shall meet with the Principal or designee after completing the classroom visitation and before leaving the school. The conference should include a review of the pupil's behavior and information for the parent or guardian about available resources and counseling in the school and community to assist them in developing more effective parenting skills.
9. The parent or guardian may not be required to comply with the notice to attend if the following reasonable factors exist.
 - a. Illness or other personal necessity that would create a hardship for the parent or guardian.
 - b. Parent or guardian will be out of town on work-related or family business.
 - c. Court appearances or jury duty.
10. Principal or designee shall contact the parent or guardian who does not respond to the request to attend school and schedule another classroom visitation time.
11. No penalties may be imposed on a pupil for the failure of the pupil's parent or guardian to attend a classroom visitation or a conference with school officials.

Principal or Designee

1. The principal of the school or his/her designee may suspend a pupil from the school for any reason listed in Education Code,

Section 48900.

2. The principal or designee may suspend a student only for acts related to school activity or attendance, including (a) while on a school bus or grounds, (b) while going to or coming from school, (c) during the lunch period (on or off campus), (d) during, or while going to or coming from a school-sponsored.
3. The principal or designee may suspend a student from school for a period not to exceed 5 successive school days, except where allowed by law, for any single offense, and not for more than 20 school days in one school year unless the student's educational placement is changed due to behavioral concerns.

Parents/guardians do not have the authority to discipline any students while on a school campus. Parents/guardians should refer their concerns to the school administrator.

Procedural Safeguards

When considering or implementing disciplinary actions for special needs students, procedural safeguards required by federal and state law will be followed.

Disciplinary Action Procedures

Detention Procedures

1. A pupil shall not be detained in school for disciplinary or other reasons for more than one hour after the close of the maximum school day. (CAC V, Section 353)
2. Parent/guardian notification is required prior to imposing a detention of more than 15 minutes on a student. Notification and detention may occur on the same day.
3. Parent/guardian notification is required on the day prior to imposing any detention upon a student who is transported by school district bus. Exceptions may be made with parent/guardian consent. (Delivery of notice to student shall constitute parent/guardian notification.)

Suspension Regulations and Procedures

Suspension removes a student from his/her classroom and/or the school campus, and results in the student losing important academic time. Students are urged to seek assistance and support from a staff member with whom they have a positive relationship, in order to avoid making a behavior choice that could result in a suspension being issued. Staff is encouraged to intervene and provide support and/or a restorative process in order to assist the student(s) to de-escalate behavior and resolve any conflicts or misbehavior that could result in suspension and/or referral for expulsion.

Jurisdiction for Suspension (State Education Code 48900(s))

No pupil shall be suspended or expelled for any of the acts enumerated above unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district.

A pupil may be suspended or expelled for acts which are enumerated in State Education Code 48900 and related to school activity or attendance which occur at any time, including but not limited to, any of the following:

- a. While on school grounds.
- b. While going to or coming from school.
- c. During the lunch period, whether on or off the campus.
- d. During, or while going to or coming from, a school sponsored activity.

Length of Suspension

(State Education Code 48910 & 48911)

Suspension by a Teacher (State Education Code 48910)

Any teacher or substitute teacher may suspend a student from his/her classroom for the day of suspension plus the following day for any of the acts described in State Education Code 48900.

The teacher who issued the suspension shall immediately report the suspension to the principal of the school and send the pupil to the principal for appropriate action.

The teacher shall ask the parent/guardian/caregiver of the pupil to attend a parent/guardian/caregiver-teacher conference regarding the suspension.

A teacher may request, when reasonable, a parent/guardian/caregiver to attend the classroom from which his/her child was suspended by the teacher for offenses which involve defiance, disruption, committing an obscene act, and/or engaging in habitual profanity or vulgarity. If a teacher wishes to have the parent/guardian/caregiver visit the classroom, the principal shall send a written notice to the parent/guardian/caregiver stating that attendance by the parent/guardian/caregiver is pursuant to law (State Ed. Code 48900.1). This requirement shall apply only to a parent/guardian who is actually living with the student.

The teacher shall ensure the principal or designee meets with the parent/guardian/caregiver after completing the classroom visitation and before leaving the school site. The principal or designee shall contact parent/guardian/caregiver who do not respond to the teacher's request to attend school. The principal or designee shall follow procedures pursuant to this section. (State Education code 48900.1)

Suspension By Principal

The duration of a suspension by the Principal is limited to 5 consecutive school days for any one incident, up to a maximum of 20 school days during the school year.

If a pupil is transferred for purposes of adjustment to another school, or class, or a continuing education school or class, the total number of school days for which the pupil may be suspended shall not exceed 30 days in any school year. (State Education Code 48903)

Suspension by the Principal/Required Due Process (State Education Code 48911)

Maximum Days of Suspension:

The principal or his/her designee may suspend a student from class, classes or the school campus for a period not to exceed five school days. The recommendation to expel should be made no later than the fifth day of suspension.

Informal Conference:

Before suspending the student, the principal or designee shall have an informal conference with the pupil and when practicable, the teacher, supervisor, or school employee who referred the pupil to the principal. At the informal conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him/her, and shall be given an opportunity to present his/her version and evidence in his/her defense.

Expulsion Procedures

1. Only the Superintendent or the principal may recommend expulsion for any of the acts listed in Education Code Section 48900 and 48915.
2. Waiver of the Expulsion Hearing and Timelines
If the student and parent/guardian accept the description of the offense as accurate, and agree that the offense is grounds for expulsion under the Education Code, the student and parent/guardian may request a waiver of an expulsion hearing and timelines to expedite the return of the student to an appropriate educational program. Parents/guardians are notified of this option and the "Expulsion Waiver" process when the Superintendent or a principal recommends expulsion.
3. If the student and parent/guardian do not request a waiver of the expulsion hearing, the student shall have a hearing before the District Administrative Panel.
4. An expulsion order shall remain in effect until the governing board orders the readmission of a pupil.
5. The length of expulsion may vary and is dependent upon the violation(s) committed by the pupil.
 - For pupils expelled for violations other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. See Grounds for Disciplinary Action for a specific listing of these offenses.
 - For pupils expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis. See Grounds for Disciplinary Action for a specific listing of these offenses.
6. The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order. The plan may include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.
7. Expelled students are placed in an appropriate educational program during the period of expulsion. Program placement is dependent on the nature of the student's violation and the needs of the student.
8. The student may appeal to the County Board of Education in cases of expulsion.

Readmission Procedures

1. Once the term of expulsion is completed the pupil will be scheduled for a review hearing. Safety issues and the pupil's progress in completing the assigned rehabilitation plan will be examined.
2. Upon completion of the review process, the governing board shall readmit the pupil, unless the readmission panel makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district.
3. If the readmission of an expelled pupil is denied, a determination will be made either to continue the placement of the pupil in the alternative education program initially selected for the pupil during the period of the expulsion order or to place the

pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school. The panel chairperson shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the education program for the expelled pupil. The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

4. The panel chairperson shall provide written notice to the expelled pupil and the pupil's readmittance into the regular school district program. The written notice shall also include the determination of the education program for the expelled pupil. The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.