



# Hayward Unified School District

## *Building a Culture of Success: "ALL Means ALL"*

To: Parent/Legal Guardian and Pupil

From: Department of Student Services

Re: **Notification of Pupil's Rights Regarding Expulsion**

If your child is being recommended for expulsion, he or she has the following rights:

1. The pupil is entitled to a hearing to determine whether he or she should be expelled. The hearing must be held within thirty (30) days after a school administrator determines that the pupil has committed an expellable offense. The pupil, parent or representative may request, in writing, that the hearing be postponed. That request should be sent to the following: **Director of Student Services, Hayward Unified School District, 24411 Amador Street, Hayward, CA 94544**. The pupil is entitled to at least one (1) postponement of the expulsion hearing for a period of not more than thirty (30) calendar days.
2. If the pupil wants an additional postponement, the pupil must make another request in writing to the Director of Student Services. An additional postponement may be granted at the discretion of the governing board.
3. The Director of Student Services may extend the time period for holding the expulsion hearing for an additional five (5) school days if she determines it is impracticable to hold the hearing within thirty (30) school days and the reasons for the extension of time are stated on the record during the hearing.
4. Written notice of the hearing shall be forwarded to the pupil at least ten (10) calendar days prior to the date of the hearing, by certified mail. The notice must include:
  - a. The date and place of the hearing.
  - b. A statement of specific facts and charges upon which the proposed expulsion is based.
  - c. A copy of the disciplinary rules of the District that relates to the alleged violation(s).
  - d. A notice of the pupil's and parent/legal guardian's obligation to notify another school district if the pupil is expelled and seeks admission in another school district.
  - e. Notice that the pupil and the pupil's parent/legal guardian(s) may be represented by counsel, inspect and obtain copies of all documents to be used at the hearing, question all other evidence presented, and present oral and documentary evidence on the pupil's behalf, including witnesses.

If there are written documents, witnesses, letters, or records of any kind the pupil and his or her parent/legal guardian(s) believe will help their case, they may present that information for consideration at the hearing. The pupil and the parent/legal guardian(s) may bring their own witnesses, including student witnesses, who may have knowledge concerning the events in question. The pupil may testify on his/her own behalf. The pupil, his/her parent/legal guardian(s) have the right to plan and present their case at the Expulsion Hearing.

5. The pupil's hearing will be in a session closed to the public unless the pupil requests, in writing, at least five (5) days prior to the date of the hearing, that the hearing be conducted at a public meeting.

6. An administrative panel will conduct the pupil's expulsion hearing. Within three (3) school days after the hearing, the panel will determine whether to recommend the expulsion of the pupil to the governing board. If the panel decides not to recommend expulsion, the proceedings will be terminated and the pupil will immediately be permitted to commence whatever education program may be designated by the superintendent or his/her designee. **A DECISION BY THE PANEL NOT TO RECOMMEND EXPULSION IS FINAL.**
7. If the panel decides to recommend expulsion, findings of fact in support of the recommendation will be prepared and submitted to the governing board. All findings of fact recommendation shall be based solely on the evidence admitted at the hearing. The governing board will determine whether to accept the recommendation based on the review of the findings of facts and recommendations of the panel, or upon the results of any supplementary hearing which the board may order to be conducted.
8. The board will make its determination whether the student will be expelled within forty (40) school days of the date when the pupil was first removed from school for the incident that caused the expulsion recommendation.
9. The evidence presented at the hearing shall be the kind of evidence upon which reasonable persons are accustomed to rely on the conduct of serious affairs. In order to support a recommendation for expulsion, there must be substantial evidence showing that the pupil committed an expellable offense. A decision to expel shall not be based solely upon hearsay evidence, but hearsay evidence is admissible and may be considered to corroborate non-hearsay evidence. An admission by the pupil is an exception to this rule. The admission, testified to by the person to whom the admission was made, may be sufficient evidence to support an expulsion.
10. The panel may determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk to harm. If this determination is made, the testimony of that witness may be presented at the hearing in the form of a sworn declaration. The identity of the witness may be withheld from the pupil who has been recommended for expulsion.
11. The pupil and his/her parent/legal guardian(s) have the right to appear at the hearing in person or employ and be represented by counsel. They have the right to inspect and obtain copies of all documents, which the District intends to use at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. This means that the pupil and the parent(s) have the right to object to any piece of paper, which the administration offers into evidence. The pupil and the pupil's parent/legal guardian(s) have the right to cross-examine any witness that the District's administration presents. The pupil has the right to testify on his/her behalf. The parent/legal guardian(s) have the right to testify. The pupil and the pupil's parent/legal guardian(s) has the right to call their own witnesses to testify on behalf of the pupil.
12. The pupil has the right not to testify, but the pupil may need to do so. The pupil needs to be aware that, as a general rule, the panel cannot rely solely on written statements and hearsay evidence to make a finding as to what happened, unless the written statement includes an admission of guilt by the pupil's written statements in the record by the pupil and/or other witnesses are not sufficient to prove the pupil's case. The pupil's live testimony may be very important to the pupil's case, especially if the pupil disagrees with the evidence presented by the school.