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ADMINISTRATIVE REGULATION-SUSPENSION AND EXPULSION/DUE PROCESS

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Students in Office of the County Superintendent of Schools Programs

For students enrolled in special education programs operated on behalf of the SELPA (Regional Programs) refer to SELPA Local Plan, Section 6439, Suspension and Expulsion of Students Enrolled in Regional Programs.

I. Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following:

- A. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level.
- B. Referral to a certificated employee designated by the principal to advise students.
- C. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five (5) school days.

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school/program personnel.

Day means a calendar day unless otherwise specifically provided.

School day means a day upon which the schools/programs are in session or weekdays during the summer recess.

Student includes a student's parent/guardian or legal counsel.

Principal/program administrator's designee means one (1) or more administrators or, if there is not a second administrator at one school/program site, a certificated person specifically designated by the principal/program administrator, in writing, to assist with disciplinary procedures. Only one (1) such person may be designated at any time as the principal/program administrator's primary designee

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and only one (1) such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal/program administrator's office.

II. Notice of Regulations

At the beginning of each school year the principal/program administrator or designee of each school/program shall ensure that all students and parents/guardians are notified in writing of all school/program rules related to discipline, suspension and expulsion. Transfer students and their parent/guardians shall be notified at the time of enrollment.

Notification shall include information about the ongoing availability of individual school rules and all County Education Office policies and regulations pertaining to student discipline.

III. Grounds for Suspension and Expulsion

- A. Students may be suspended or recommended for expulsion when the County Superintendent, principal/program administrator or designee at the school/program in which the student is enrolled determines that the student has committed any of the acts listed below:
1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense.
 2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal/program administrator or designee's concurrence.
 3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of any controlled substance as defined in the Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind.
 4. Unlawfully offered, arranged, or negotiated to sell any controlled substance, alcoholic beverage or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid,

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- substance, or material and represented same as a controlled substance, alcoholic beverage, or intoxicant.
5. Committed or attempted to commit robbery or extortion.
 6. Caused or attempted to cause damage to school property or private property, including electronic files and databases.
 7. Stole or attempted to steal school property or private property, including electronic files and databases.
 8. Possessed or used tobacco, or any products containing tobacco or nicotine products (except in the very limited instance of nicotine as an ingredient of a prescribed drug that requires ingestion during school hours) including, but not limited to, cigarettes, cigars, miniature cigars, clove-cigarettes, smokeless tobacco, snuff, chew packets, and betel.
 9. Committed an obscene act or engaged in habitual profanity or vulgarity.
 10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in the Health and Safety Code 11014.5.
 11. Disrupted school/program activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
 12. Knowingly received stolen school/program property or private property.
 13. 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.
 14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289 or committed a sexual battery as defined in Penal Code 243.4.
 15. Harassed, threatened, or intimidated a 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.
 16. Made terroristic threats against school officials or school property, or both. A "terroristic threat" includes any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or damage to property in excess of one thousand dollars

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(\$1,000). The specific intent must be intentional, immediate, specific, and clear enough that the person threatened has reasonable fears for his or her safety or the safety of his or her immediate family.

17. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- B. A student in grades 4 through 12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:
1. Committed sexual harassment as defined in Education Code 212.5.
 2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233.
 3. Intentionally harassed, threatened or intimidated district personnel or a student or group of students to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading student rights by creating an intimidating or hostile educational environment.
- C. A student may be suspended or expelled for any of the acts listed above if the act is related to a school/program activity or attendance, including but not limited to, the following circumstances:
1. While on school/program grounds.
 2. While going to or coming from school/program.
 3. During the lunch period, whether on or off the school campus.
 4. During, going to, or coming from a school/program-sponsored activity.
- D. Alternatives to suspension or expulsion may be used against students who are truant, tardy, or otherwise absent from assigned school/program activities.

Suspension

I. Authority to Suspend

The County Superintendent, principal/program administrator or designee may suspend a student from a school for any of the acts listed under "Grounds for Suspension and Expulsion" above, for not more than five (5) consecutive school

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days, unless the suspension is extended pending expulsion.

Suspension may also be imposed under a first offense, if the County Superintendent, principal/program administrator or designee determines the student violated items #1-5 of the list, or the student violated items #6-19 of the list and the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

A student may be suspended from school for any of the acts listed under "Grounds for Suspension and Expulsion" above, for not more than twenty (20) school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed thirty (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.

II. Procedures Prior to Suspension

A. Notice to Law Enforcement Prior to Suspension

Prior to the suspension or expulsion of any student, the principal/program administrator or designee shall notify the appropriate city or county law enforcement authorities of any acts of assault by a student which may have violated Section 245 of the Penal Code (Assault with a Deadly Weapon or Force Likely to Produce Great Bodily Injury) or any acts of a student which may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code (Gun-Free School Zone Act of 1995).

B. Notice to Parents Upon Release of Minor Student to Peace Officer

When a principal/program administrator or designee or other official releases a student to a peace officer in order to remove the minor from school/program premises, the official shall take immediate steps to notify the student's parent/guardian or responsible relative regarding the student's release to the officer and the place to which the student is reportedly being taken, except when the student is a victim of suspected child abuse, in which case the County Education Office must provide the parent/guardian's address and telephone number to the officer.

III. Suspension Procedures

A. Suspension from Class by a Teacher

Suspension from a class means the removal of a student from class by a teacher for the remainder of the day of the suspension and the day following for any act listed in "Grounds for Suspension and Expulsion"

above. A teacher may suspend a student from class and may also refer a student to the principal/program administrator or designee for consideration of suspension from school for any of the acts listed in "Grounds for Suspension and Expulsion" above.

When a teacher removes a student from his/her class, the teacher shall immediately report the removal to the principal/program administrator or designee and send the student to the principal/program administrator or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed.

As soon as possible, the teacher shall ask the student's parent or guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist should attend the conference if it is practicable, and a County Education Office administrator may attend if either the parent/guardian or teacher so request.

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal/program administrator or designee.

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one (1) class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed.

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal.

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B. Suspension by County Superintendent, Principal/Program Administrator or Designee

The County Superintendent, principal/program administrator or designee shall immediately suspend any student found at school or at a school activity to be:

1. Possessing, as verified by an 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/program administrator or designee's concurrence.
2. Brandishing a knife, as defined in Education Code 48915(g), at another person.
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058.
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above.

Suspension also may be imposed on a first offense if the County Superintendent, principal/program administrator or designee 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.

Suspensions shall be initiated according to the following procedures:

1. Informal Conference
Suspension shall be preceded by an informal conference conducted by the County Superintendent, principal/program administrator or designee between the student, and whenever practicable, the teacher, supervisor or school employee who referred the student to the principal/program administrator or designee. At the conference the student shall be informed of the reason for the disciplinary action and the evidence against him/her

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and shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the County Superintendent, principal/program administrator or designee determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If the pre-suspension conference is not held, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two (2) school days, unless the student waives his/her right to it or is physically unable to attend for

any reason. In such case the conference will be held as soon as the student is physically able to return to school.

2. Administrative Actions

All requests for student suspension are to be processed by the principal/program administrator or designee of the school/program in which the student is enrolled at the time of the misbehavior.

Option

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the County Superintendent or designee.

3. Notice of 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.

This note shall state the reasons for suspension and the date and time when the student may return to school. Should school/program officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may also add that state law requires the parent/guardian to respond to such request without delay.

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4. Parent/Guardian Conference

Whenever a student is suspended, school officials are permitted to meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matter.

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such conference. The student may not be denied readmission solely because the parent/guardian failed to attend.

5. Extension of Suspension

If the expulsion of a suspended student is being considered by the County Superintendent or designee, the County Superintendent or designee may, in writing, extend the suspension until such time as the County Superintendent or designee has made a decision. This extension may be made only if the County Superintendent or designee has determined, following a meeting in which the student and the student's parent/guardian are invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold an additional conference concerning the extension, giving the student a further opportunity to be heard.

Expulsion

I. Authority to Expel

- A. With the exception of Regional special education programs, a student may be expelled from programs of the County Education Office only by the County Superintendent of Schools.
- B. The County Superintendent, principal/program administrator or designee shall recommend a student's expulsion for any of the following acts,

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unless the principal/program administrator or designee finds, and reports in writing to the County Superintendent, that expulsion is inappropriate due to particular circumstances which shall be set out in the report of the incident.

1. Causing serious physical injury to another person, except in self-defense.
 2. Possession of any knife, explosive or other dangerous object of no reasonable use to the student as defined in Education Code 48915(g).
 3. Unlawful possession or use of any controlled substance listed in Health and Safety Code 11053-11058, except for the first-offense for the sale of not more than one (1) avoirdupois 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.
- C. The principal/program administrator or designee shall immediately suspend and mandatorily recommend the expulsion of any student for the following:
1. Possessing or selling or otherwise furnishing a firearm at school or at a school activity off school grounds, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the concurrence of the principal/program administrator or designee. The County Superintendent shall expel that student or, as an alternative, refer him/her to an alternative education program whenever the County Superintendent, hearing officer or administrative panel confirms that (a) the student was in knowing possession of the firearm, (b) possession of firearm was verified by an employee of the County Education Office or of the school where the incident occurred; (c) there was no reasonable cause for the student to be in possession of the firearm.
 2. Brandishing a knife as defined in Education Code 48615(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

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a sexual battery as defined in item #14 under “Grounds for Suspension and Expulsion” above.

Upon finding that the student committed any of the above acts, the County Superintendent shall expel the student.

For an act requiring mandatory expulsion, the date when the student shall be reviewed for readmission to a school within the County Education Office shall be one year from the date the expulsion occurred, except that the County Superintendent may set an earlier date on a case-by-case basis.

The County Superintendent/designee shall notify law enforcement about any student in possession of weapons and any acts of assault by a student with a firearm or other deadly weapon or instrument.

- D. A student may be expelled for any of the acts listed under “Grounds for Suspension and Expulsion” above. Upon recommendation by the County Superintendent, principal/program administrator or designee, hearing officer or administrative panel finding that the student violated items #1-5 of the list, or the student violated items #6-19 of the list and other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others.

II. Expulsion Procedures

A. Student’s Right to Hearing

The student is entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within thirty (30) school days after the County Superintendent, principal/program administrator or designee determines that one of the acts listed under “Grounds for Suspension and Expulsion” above has occurred.

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The student is entitled to one(1) postponement of an expulsion hearing for a period of not more than thirty (30) calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the discretion of the County Superintendent or designee.

If the County Superintendent or designee finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the County Superintendent or designee may, for good cause, extend the time period by an additional five (5) school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

B. Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one (1) school day in order to accommodate the special physical, mental or emotional needs of a student who is the complaining witness.

Whenever the County Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the suspension and expulsion policy and regulation and shall advise the witness of his/her right to:

1. Receive five (5) days' notice of his/her scheduled testimony at the hearing.
2. Have up to two (2) 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.

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Whenever any allegation of sexual assault or sexual battery is made, the County Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending.

C. Written Notice of the Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten (10) calendar days before the date of the hearing. The notice shall include:

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the processed expulsion is based.
3. A copy of disciplinary rules which related to the alleged violation.
4. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel.
5. The right to inspect and obtain copies of all documents to be used at the hearing.

6. The opportunity to confront and question all witnesses who testify at the hearing.
7. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

D. Conduct of Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Superintendent, hearing officer or administrative panel shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the parent/guardian or adult student requests in writing at least five (5) days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public to the extent it does not violate the privacy rights of any other student.

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Whether the hearing is conducted in closed or public session, the County Superintendent, hearing officer or administrative panel may meet in closed session for the purpose of deliberations. If the County Superintendent, hearing officer or administrative panel admits any other person to the closed session, the parent/guardian, the student, counsel of the student and counsel of the parent/guardian shall also be allowed to attend the closed session.

If the hearing is to be conducted at a public meeting, and there is a charge of sexual assault, a complaining witness shall have the right to have his or her testimony heard in a closed session when testifying at a public meeting would threaten serious psychological harm to the complaining witness and 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 means of closed-circuit television.

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including an electronic recording, so long as a reasonably accurate written and complete transcription of the proceedings can be made.
3. Presentation of Evidence: While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the County Superintendent to expel must be supported by substantial evidence that the student committed any of the acts listed under "Grounds for Suspension and Expulsion" above. Findings of fact shall be based solely on the evidence at the hearing. While no evidence shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure may subject them to an unreasonable risk of harm.

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

4. Subpoenas:
 - a. Before the expulsion hearing has commenced, the County Superintendent may issue subpoenas at the request of the principal/program administrator or designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced the County Superintendent, hearing officer, or administrative panel may, upon request of the County Superintendent or designee, or the pupil, issue subpoenas. All subpoenas shall be issued in accordance with Sections 1985-1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Government Code 11525.
 - b. Any objection raised by the principal/program administrator or designee or the pupil to the issuance of subpoenas may be considered by the County Superintendent, if so requested by the pupil before the meeting. Any decision by the County Superintendent in response to an objection to the issuance of subpoenas shall be final and binding.
 - c. If the County Superintendent, hearing officer, or administrative panel finds and submits to the County Superintendent 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 provided for in subdivision (f).

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student:
 - a. Any complaining witness shall be given five (5) 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.

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- 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 provided notice and an opportunity to oppose the introduction of the 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 the 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, a nonthreatening environment shall be provided.
 - (1) A room separate from the hearing room for the use of the complaining witness before and during breaks in testimony shall be provided.
 - (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 not good cause to take testimony during other hours.

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- (c) Permit one of the support persons to accompany the complaining witness to the witness stand.

6. Decision: The decision of the County Superintendent whether to expel a student shall be made within ten (10) school days following the conclusion of the hearing, unless the student requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, the decision of the County Superintendent shall be made within forty (40) school days after the date of the student's removal from his or her school program of attendance for the incident for which the recommendation for expulsion is made, unless the student requests in writing that the decision be postponed.
7. Maintenance of Records: The County Education Office will maintain a record of each expulsion, including the cause therefore. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls, within five (5) days of a written request by the admitting school.

E. Alternative Hearing: Hearing Officer or Administrative Panel

Instead of personally conducting an expulsion hearing, the County Superintendent may contract with a county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the County Superintendent may appoint an impartial administrative panel composed of three (3) or more certificated personnel,

none of whom shall be on the staff of the school in which the student is enrolled.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the County Superintendent as specified in "Conduct of Hearing" above.

The hearing officer or administrative panel shall, within three (3) school

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days after the hearing, determine whether to recommend expulsion of the student to the County Superintendent. If expulsion is not recommended, the student shall be immediately reinstated.

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the County Superintendent. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The County Superintendent 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 County Superintendent may order.

The hearing officer or administrative panel may recommend that the County Superintendent suspend the expulsion for a period of one (1) year.

The County Superintendent shall make his/her decision about the student's expulsion within forty (40) school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed.

F. Final Action by the County Superintendent

Whether the expulsion hearing is conducted in closed or public session by the County Superintendent, a hearing officer, or an administrative panel,

the final action to expel must be taken by the County Superintendent at a public meeting. The County Education Office shall maintain a record of each expulsion, including its cause. Expulsion records shall be non-privileged, disclosable public records.

G. Reinstatement

When the County Superintendent accepts a recommendation against expulsion or makes his/her own decision after the hearing not to expel, the decision is final and the student shall be reinstated immediately. The County Superintendent or designee shall place the student in any classroom program, other instructional program, rehabilitation program, or

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any combination of such programs following consultation with the principal/program administrator or designee, including the teacher involved and with the student's parent/guardian. For special education students, an IEP team shall make the placement decision.

H. Written Notice to Expel

The County Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal such expulsion to the County Board of Education.

III. Readmission: Plan for Rehabilitation

An expulsion order shall remain in effect until the County Superintendent or designee may order the readmission of the student. Upon ordering the expulsion, the County Superintendent or designee shall set a date, no later than the last day of the semester following the semester in which the expulsion occurred, when the student may apply for readmission. The County Superintendent or designee may recommend a plan for the student's rehabilitation, which may include:

- A. Periodic review and assessment at the time of application for readmission.
- B. Recommendations for counseling, employment, community service and other rehabilitation programs.
- C. Such other recommendations as the County Superintendent or designee 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 return to school.

IV. Readmission After Expulsion

- A. A written request for review of the expulsion action and request for readmission shall be submitted by the parent/guardian to the County

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Superintendent or designee.

- B. The County Superintendent or designee shall hold a conference with the parent/guardian and the student.

At the conference, the conditions for readmission shall be reviewed. The County Superintendent or designee shall verify that the conditions have been met. School regulations will be reviewed, and the student and parent/guardian will be asked to indicate in writing their willingness to comply with these regulations.

- C. The County Superintendent may consider the request in closed session or in open session. If a written request for open session is received from the student or the parent/guardian, it will be honored.
- D. The County Superintendent shall notify the student or parent/guardian, by registered mail, of his/her decision regarding readmission.

V. Suspension of Expulsion

- A. The County Superintendent, upon decision to expel a student, may suspend the enforcement of the expulsion order for not more than one (1) calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation.
- B. During this period the student shall be on probationary status.
- C. The suspension of expulsion order may be revoked by the County Superintendent if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above, or violates any of the rules and regulation governing student conduct.
- D. When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
- E. Upon satisfactory completion of the rehabilitation assignment, the County Superintendent shall reinstate the student. Upon reinstatement, the County Superintendent may order the expungement of any or all records

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- of the expulsion proceedings.
- F. Suspension of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education. The appeal must be filed within thirty (30) days of the County Superintendent's decision to expel.
 - G. The County Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board of Education.

VI. Alternative to Expulsion Hearing: Stipulated Expulsion

- A. Definition: Stipulated Expulsion: a proposed recommendation to expel presented to the County Superintendent that bypasses the hearing process based on agreement of the County Office and parent/guardian.
- B. All of the following must occur for a Stipulated Expulsion to be considered:
 - 1. The facts leading to the recommendation to expel are not disputed, and
 - 2. the site principal, program administrator and Superintendent or designee believe it is in the best interest of the student, and
 - 3. parent/guardian and program administrator believe that it is unnecessary to convene an administrative hearing panel to make a recommendation to the County Superintendent to expel, and
 - 4. the parent/guardian voluntarily agrees to a proposed expulsion order that will be presented to the County Superintendent for action.
- C. In stipulating to a proposed expulsion order, the parent/guardian:
 - 1. Is informed of the student's right to an administrative hearing and receives copies of the policies and administrative regulations governing expulsion (BP 6006 and AR 6006),
 - 2. agrees that the student's misconduct subjects the student to expulsion,
 - 3. waives the timelines for conducting the expulsion hearing,

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4. stipulates to the facts outlined in the "Suspension Notice," and/or "Notice of Recommendation to Expel," and
5. agrees to a specified alternative placement and rehabilitation plan during the period of the expulsion order.

D. Action by County Superintendent:

1. If all parties agree in writing to a proposed expulsion order, the recommendation for expulsion is presented in writing to the County Superintendent for review and action in the same manner as any other hearing panel recommendations.
2. If the County Superintendent approves the recommendations as delineated in the proposed expulsion order, the terms of the stipulated expulsion will be immediately implemented.
3. If the County Superintendent denies the recommendations as delineated in the proposed expulsion order, an administrative hearing will be scheduled within 30 school days and the parent/guardian and student will receive all due process protections delineated in Education Code 48900 et.seq.

E. Final Action by the County Superintendent

Whether the expulsion hearing is conducted in closed or public session by the County Superintendent, a hearing officer, administrative panel, or through a stipulated expulsion order process, the final action to expel must be taken by the County Superintendent at a public meeting. (Education Code 48918 (i)) The County Education Office shall maintain a record of each expulsion, including its cause. Expulsion records shall be nonprivileged, disclosable public records. (Education Code 48918 (j))

VII. Right to Appeal

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

The appeal must be filed within thirty (30) days of the County Superintendent's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

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VIII. Information Regarding Expulsions

The County Superintendent or designee shall, within five (5) working days, honor any other district's request for information about expulsions from programs of the County Education Office.

IX. Notifications and Reports

A. Notice to Law Enforcement Authorities

Within one (1) school day after a student's suspension or expulsion, the principal/program administrator or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900-c or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind.

Prior to the suspension or expulsion of any student, the principal/program administrator or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal/program administrator or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or a controlled substance or possession of weapons, firearms, or explosive devices in violation of Penal Code 626.9 and 626.10.

B. Reports to California Department of Education

On forms supplied by the California Department of Education, principals/program administrators or designees shall regularly submit to the County Superintendent or designee a completed report of student suspensions and expulsions. The County Superintendent or designee shall compile this information and submit the aggregated district/program data to the California Department of Education in accordance with timelines established in law.

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X. Program Drop

Students may be dropped from Santa Barbara County Education Office programs for attendance or discipline reasons (including but not limited to acts detailed in Section III of this Regulation (“Grounds for Suspension and Expulsion”) after:

1. Program rules and procedures have been provided.
2. Violations of these standards have occurred.
3. Due process procedures have been followed.

Special education students in Regional Programs are subject to SELPA procedures when dismissal from a program is being considered.

A. Authority to Drop

After following due process procedures a teacher/instructor acting in conjunction with guidance personnel may drop a student from a program.

A program administrator may drop a student from a program.

B. Notice to Parents/Guardians and High School of Residence

The program administrator or designee will immediately notify the parents/guardians of dropped students and the student’s high school of residence.

C. Students’/Parents’ Right to Hearing

If the student and/or parent/guardian challenges a program drop, they are entitled to a hearing with the instructor and the program administrator or designee.

D. Readmission

The program administrator or designee has the authority to readmit students who have been dropped from programs if conditions so warrant. If the student is denied readmission by the program administrator or

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designee, the student or parent/guardian may appeal to the County Superintendent or designee.

XI. Individuals With Disabilities

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

A. Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has violated the county's code of student conduct may assert the procedural safeguards granted under this administrative regulation only if the county *had knowledge* that the student is disabled before the behavior that precipitated the disciplinary action occurred.

The county shall be deemed to *have knowledge* that the student has a disability if one of the following conditions exists:

1. The parent/guardian has expressed concern to supervisory or administrative county personnel in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education.
3. The teacher of the student, or other county personnel, has expressed specific concerns directly to the SBCEO Assistant Superintendent of Special Education or to other supervisory personnel about a pattern of behavior demonstrated by the student.

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The county would be deemed to *not have knowledge* that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the county would be deemed to *not have knowledge* if the county conducted an evaluation and determined that the student was not an individual with a disability. When the county is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities.

B. Suspension

The County Superintendent or designee may suspend a student with a disability for up to ten (10) consecutive school days for a single incident of misconduct, and for up to twenty (20) school days in a school year, as long as the suspension(s) does not constitute a change in placement.

C. Services During Suspension

Any student suspended for more than ten (10) school days in a school year shall continue to receive services during the term of the suspension, to the extent necessary to provide the student a free and appropriate public education.

If a student with disabilities is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or parent/guardian, provided that transportation is specified in the student's IEP.

D. Interim Educational Placement Due to Dangerous Behavior

A student with a disability may be placed in an appropriate interim alternative educational setting for up to 45 school days, without regard as to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function:

1. Carries or possesses a weapon
2. Knowingly possesses or uses illegal drugs

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3. Sells or solicits the sale of a controlled substance
4. Inflicts serious bodily injury upon another person

The student's alternative educational setting shall be determined by his/her IEP team.

E. Procedural Safeguards/Manifestation Determination

The following procedural safeguards shall apply when a student is suspended for more than ten (10) consecutive school days, when disciplinary action is contemplated for a dangerous behavior as described above, or when a change of placement is contemplated due to a violation of the district's code of conduct.

1. The parents/guardians of the student shall be immediately notified of the decision and provided the procedural safeguards notice on the day the decision to take action is made.
2. Immediately if possible, but in no case later than ten (10) school days after the date of the decision, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action.

At the manifestation determination review, the relevant members of the IEP team, the district and parent/guardian shall review all relevant information in the student's file including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians to determine whether the conduct in question was either of the following:

- a. Caused by, or had a direct and substantial relationship to, the student's disability
- b. A direct result of the district's failure to implement the student's IEP

If the manifestation review team determines that the conduct was caused by either #a, or #b above, the conduct shall be determined to be a manifestation of the student's disability.

3. If the manifestation determination review team has determined that the conduct was a result of the student's disability, the IEP team shall conduct a

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functional behavioral assessment as specified below. The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and county agree to a change of placement as part of the modification of the behavioral intervention plan.

4. If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. The student shall continue to receive services to the extent necessary to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP.

F. Behavioral Assessment and Intervention Plan

The IEP team shall conduct a functional behavioral assessment and implementation plan for a student who has been removed because of dangerous behavior, or whose behavior was determined to be a manifestation of his/her disability, or whose behavior was determined not to be a manifestation of his/her disability. If the student already has an existing functional behavioral assessment, the team shall modify the assessment, as appropriate, to address the behavioral violation so that it does not recur.

G. Due Process Appeals

If the parent/guardian disagrees with the determination that the student's behavior was not a manifestation of his/her disability or with any decision regarding placement, the parent/guardian has a right to appeal the decision to a hearing officer.

If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational placement or the manifestation determination, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and county agree otherwise.

If school personnel maintain that it is dangerous for the student to be placed in the current placement (placement prior to removal to the interim alternative education setting) while the due process proceedings are pending, the Superintendent or designee may request an expedited due process hearing.

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H. Services During Expulsion

Any student with a disability who is expelled shall continue to receive services during the term of the expulsion to the extent necessary to provide the student a free and appropriate public education. Any alternative program must provide services to the extent necessary to enable the student to appropriately progress in the general curriculum, although in another setting, and appropriately advance toward achieving the goals set out in the student's IEP.

I. Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

J. Suspension of Expulsion

The County Superintendent's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students.

K. Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon.

The principal or designee also shall notify appropriate city or county law enforcement authorities of acts by any student with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms.

Within one school day after a suspension or expulsion of a student with disabilities, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind.

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