



STUDENTS

POLICY – SUSPENSION AND EXPULSION/DUE PROCESS

BP 5144.1

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

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

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

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

Staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the County Education Office's nondiscrimination policies.

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

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

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the County Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled only by the County Board. (Education Code 48918(j))

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

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For other violations, the County Superintendent or designee shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the County Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct

2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

Due Process

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

Maintenance and Monitoring of Outcome Data

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

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

Suspension and Expulsion/Due Process– Board Policy 5144.1

UNITED STATES CODE, TITLE 18
921 Definitions, firearm

UNITED STATES CODE, TITLE 20
1415(K) Placement in alternative educational setting
7961 Gun-free schools

UNITED STATES CODE, TITLE 42
11432-11435 Education of homeless children and youths

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118
Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807
John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)
80 Ops.Cal.Atty.Gen. 348 (1997)
80 Ops.Cal.Atty.Gen. 91 (1997)
80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS
Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

CSBA: <http://www.csba.org>
California Attorney General's Office: <http://www.oag.ca.gov>
California Department of Education: <http://www.cde.ca.gov>
U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>
U.S. Department of Education, Office of Safe and Healthy Students: <http://www2.ed.gov/about/offices/list/oese/oshs>

ADOPTED BY COUNTY BOARD:
REVISED:

January 6, 1994
April 7, 1994
December 12, 2013
September 2, 2021