

## Students

### Suspension and Expulsion/Due Process

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion. (cf. 5131 - Conduct), (cf. 5131.1 - Bus Conduct), (cf. 5131.2 - Bullying)

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 district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus, (cf. 5112.5 - Open/Closed Campus)
4. During, going to, or coming from a school-sponsored activity

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the district's nondiscrimination policies. (cf. 0410 - Nondiscrimination in District Programs and Activities)

#### Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when 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), (cf. 5138 - Conflict Resolution/Peer Mediation), (cf. 5144 - Discipline), (cf. 6142.4 - Service Learning/Community Service Classes), (cf. 6164.2 - Guidance/Counseling Services), (cf. 6164.5 - Student Success Teams)

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### Suspension and Expulsion/Due Process (continued)

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.

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)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities. (cf. 5113 - Absences and Excuses), (cf. 5113.1 - Chronic Absence and Truancy)

#### 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 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 Board. (Education Code 48918(j))

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

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (cf. 5131.7 - Weapons and Dangerous Instruments)
2. Selling or otherwise furnishing a firearm

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3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

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

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

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

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

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

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918), (cf. 5119 - Students Expelled from Other Districts), (cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

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### Suspension and Expulsion/Due Process (continued)

#### Maintenance and Monitoring of Outcome Data

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

In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan. (cf. 0460 - Local Control and Accountability Plan)

#### Transfers, Suspensions, and Expulsions pertaining to Foster Youth

In a case where any meetings or informal conferences are held to discuss an involuntary transfer to a continuation school, a suspension, or an expulsion of a pupil who is a foster child, as defined in EC Section 48853.5, the pupil, the pupil's parent or guardian, the pupil's educational rights holder, the pupil's attorney, and an appropriate representative of the county child welfare agency shall also be invited to any such meetings or informal conferences. (EC sections 48432.5[b], 48432.5[c], 48911[c], 48911[g])

Any communication to parents or guardians regarding an involuntary transfer to a continuation school, a suspension, or an expulsion for a pupil who is a foster child, as defined in EC Section 48853.5, shall also include communication to the pupil's educational rights holder, the pupil's attorney, and an appropriate representative of the county child welfare agency. (EC sections 48432.5[b], 48432.5[c], 48911[c], 48911[d], 48911[g], 48911.1[d], 48915.5[d], 48918.1[a])

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If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in EC Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. (EC Section 48918.1[a])

If an individual with exceptional needs who is also a foster child, as defined in EC Section 48853.5, is suspended or expelled from school and the LEA has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the pupil's attorney and an appropriate representative of the county child welfare agency shall be invited to participate in the Individualized Education Program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. (EC Section 48915.5[d])

## Legal Reference:

EDUCATION CODE

212.5	Sexual harassment
233	Hate violence
1981-1981.5	Enrollment of students in community school
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

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Legal Reference: (continued)

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

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Legal Reference: (continued)

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

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

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

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

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

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

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

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