

## RANCHO SANTA FE SCHOOL DISTRICT

### **Board Policy No. 5012: PUPIL DISCIPLINE: SUSPENSION AND EXPULSION**

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#### **A. Introduction**

- 1. It is the intent of the Board that all pupils will comply with federal and state laws and District policies and regulations. Pupils also shall pursue the required course of study and submit to the authority of teachers and administrators of the District.
- 2. This Policy is adopted by the Board as a policy of the District pursuant to Education Code Section 35291.
- 3. It is the intent of the Board that its policies be consistent with current law. Any part of this Policy which is not consistent with current law shall be void.
- 4. As used in this Policy:
  - a. "Day" means a calendar day unless otherwise specifically provided.
  - b. "Expulsion" means removal of a pupil from (1) the immediate supervision and control, or (2) the general supervision, of school personnel, as those terms are used in relevant law.
  - c. "School day" means a day upon which the schools of the District are in session or weekdays during the summer recess.

- d. "Suspension" means removal of a pupil from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following:
1. Reassignment to another education program or class at the same school where the pupil will receive continuing instruction for the length of day prescribed by the Board for pupils of the same grade level.
  2. Referral to a certificated employee designated by the Principal to advise pupils.
  3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the pupil to the Principal or the Principal's designee. Removal from a particular class shall not occur more than once every five school days.

**B. Suspension By A Teacher**

1. A teacher may suspend any pupil from the teacher's class, for any of the acts enumerated in Education Code section 48900 (which are restated in provision C of this Policy), for the day of the suspension and the day following. The teacher shall immediately report the suspension to the Principal in writing and send the pupil to the Principal or the Principal's designee for appropriate action. The teacher shall provide the Principal with a written statement of reasons for the suspension. If the suspension requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. The Principal or designee shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the Principal. The teacher may require the pupil to complete any assignments and tests missed during the suspension.
2. A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day, this provision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.
3. A teacher may also refer a pupil, for any of the acts enumerated in provision C of this Policy, to the Principal or designee for consideration of a suspension from the school.

**C. Grounds For Suspension Or Expulsion**

This provision restates the grounds in Education Code sections 48900, 48900.2, 48900.3, and 48900.7. This provision shall not be interpreted to be inconsistent with that statute.

A pupil shall not be suspended from school or recommended for expulsion unless the Superintendent or the Principal determines that the pupil has:

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 such object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the Principal or the designee of the Principal.
3. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance (listed in Health And Safety Code sections 11053, et seq.), an alcoholic beverage, or an intoxicant of any kind.
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance (listed in Health And Safety Code section 11053, et seq.), 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.
5. Committed or attempted to commit robbery or extortion.
6. Caused or attempted to cause damage to school property or private property.
7. Stolen or attempted to steal school property or private property.
8. 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 electronic cigarettes that can deliver tobacco or nicotine and non-nicotine vaporized solutions, or electronic smoking devices. However, this provision does not prohibit use or possession by a pupil of his or her own prescription products.
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 (defined in Health and Safety Code section 11014.5).
11. 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. Except as provided in provision (B), Suspension by a Teacher, the acts enumerated in this subdivision shall not constitute grounds for a pupil to be recommended for suspension or expulsion.
12. Knowingly received stolen school property or private property.

13. Possessed an imitation firearm. An "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 Section 261, 266c, 286 288, 288a or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
15. Sexual harassment as defined by law, except that this provision does not apply to pupils enrolled in Kindergarten and grades 1 to 3, inclusive.
16. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined by law except that this provision does not apply to pupils enrolled in Kindergarten and grades 1 to 3 inclusive. "Hate violence" means any act punishable under Section 422.6, 422.7 or 422.75 of the Penal Code.
17. Intentionally engaged in harassment, threats, or intimidation directed against school district personnel or pupils, 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 either school personnel or pupils by creating an intimidating or hostile educational environment except that this provision does not apply to pupils enrolled in Kindergarten and grades 1 to 3, inclusive.
18. 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.
19. Made terrorist threats against school officials or school property, or both. The term "terrorist threat" shall include 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 property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own personal safety or for his or her own immediate family's safety, or for the protection of school property, or the personal property of the person threatened or his or her immediate family.
20. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug SOMA.
21. Engaged in, or attempted to engage in, hazing. For purposes of this subparagraph, "hazing" means a method of initiation or preinitiation in to 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 the purposes of this subparagraph, "hazing" does not include athletic events or school-sanctioned events.

22. A pupil who aids or abets as defined in Penal Code section 31, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion 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 paragraph 1 above.
23. Engaged in an act of "bullying." "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of electronic act, and including one or more acts committed by a pupil or group of pupils constituting prohibited sexual harassment, prohibited hate violence, and prohibited harassment, threats or intimidation, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
  - a. Placing a reasonable pupil or pupils in fear of harm to that pupil's or pupils' person or property.
  - b. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
  - c. Causing a reasonable pupil to experience substantial interference with his or her academic performance.
  - d. 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.

"Electronic act" for purposes of this Board Policy means the creation or transmission originated on or off campus, by means of an electronic device, including but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to the following:

- (i) A message, text, sound, video, or image.
- (ii) A post on a social network Internet Web Site, including, but not limited to, any of the following:
  - a. Posting or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in Section C, Paragraph 23.
  - b. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in Section C, Paragraph 23. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would

reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

- c. Creating a false profile for the purpose of having one or more of the effects listed in Section C, Paragraph 23. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(iii) An act of cyber sexual bullying.

- a. For purposes of this clause, "cyber sexual bullying" means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described in Section C, Paragraph 23, subparagraphs (A) to (D). A photograph or other visual recording, as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.
- b. For purposes of this clause, "cyber sexual bullying" does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

"Reasonable pupil" for purposes of this Board Policy 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 this or her exceptional needs.

#### **D. Limitations On Suspension Or Expulsion**

A pupil may not be suspended or expelled for any act unless that act is related to school activity or school attendance. A pupil may be suspended or expelled for any act in provision C related to school activity or attendance which occurs at any time, including, but not limited to, any of the following:

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

Alternatives to suspensions or expulsions should be imposed against any pupil who is truant, tardy, or otherwise absent from school activities. A suspension or expulsion shall not be imposed

against a pupil based solely on the fact that they are truant, tardy, or otherwise absent from school activities.

**E. Limitations On Suspension And Mandatory Suspensions**

1. A suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a pupil, including an individual with exceptional needs, may be suspended for any of the reasons enumerated in provision C upon a first offense, if the Principal or Superintendent determines that the pupil violated provision C 1, 2, 3, 4, or 5, or that the pupil's presence causes a danger to persons or property or threatens to disrupt the instructional process. Suspension, including supervised suspension, shall be imposed in accordance with Education Code section 48900.5 amended in 2012 in most cases only when other means of correction fail to bring about proper conduct. The Superintendent or Principal may document such other means of correction used and place that documentation in the pupil's record. Other means of correction include, but are not limited to, a conference with the pupil's parent or legal guardian, referral to a counselor, and any of the alternatives listed in Education Code section 48900.5(b). Suspension including supervised suspension, shall be imposed in accordance with Education Code section 48900.5 amended in 2012 in most cases only when other means of correction fail to bring about proper conduct. The Superintendent or Principal may document such other means of correction used and place that documentation in the pupil's record. Other means of correction include, but are not limited to, a conference with the pupil's parent or legal guardian, referral to a counselor, and any of the alternatives listed in Education Code section 48900.5(b).
2. For a pupil who has been suspended, or for whom other means of correction have been implemented pursuant to Education Code section 48900.5(b), for an incident of racist bullying, harassment, or intimidation, the District may, where appropriate and in the discretion of the District, have both the victim and perpetrator engage in a restorative justice practice that is found to suit the needs of both the victim and the perpetrator; regularly check on the victim of racist bullying, harassment, or intimidation to ensure that the victim is not in danger of suffering from long-lasting mental health issues; and/or require perpetrators to engage in culturally sensitive programs that promote racial justice and equity and combat racism and ignorance.
3. A certificated or classified employee may refer a pupil to school administrators for appropriate and timely in-school interventions or supports from the list of other means of correction specified in Education Code section 48900.5(b) for any act of disruption of school activities or willful defiance of the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. In those cases, a school administrator shall, within five business days, document the in-school interventions or supports taken and place that documentation in the pupil's record to be available for access, to the extent permissible under state and federal law, pursuant to Education Code section 49069.7. The school administrator shall, by the end of the fifth business day, also inform the referring certificated or classified

employee, verbally or in writing, what actions were taken and, if none, the rationale used for not providing any appropriate or timely in-school interventions or supports.

4. Pursuant to Education Code section 48915(c), the Principal or Superintendent shall immediately suspend and shall recommend expulsion of a pupil who has committed any of the following acts at school or at a school activity off school grounds.
  - a. Possession, selling, or otherwise furnishing a firearm verified by a District employee.
  - b. Brandishing a knife at another person.
  - c. Unlawfully selling a controlled substance listed in Health and Safety Code section 11053 et seq.
  - d. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in Section 48900(n) of the Education Code and paragraph 14 above.
  - e. Possession of an explosive.
5. Except as provided in Education Code section 48911(g) or provision F, and in Education Code section 48912 or provision G, the total number of days for which a pupil may be suspended from school shall not exceed 20 school days in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the pupil may be suspended shall not exceed 30 days in any school year.
6. The pupil's teacher(s) may require the pupil to complete any assignments and tests missed during the suspension.

**F. Suspension By Principal Or Superintendent**

1. The Principal, the Principal's designee, or the Superintendent may suspend a pupil from school for any of the reasons enumerated in provision C for no more than five consecutive school days.
2. Suspension by the Principal, the Principal's designee, or the Superintendent shall be preceded by an informal conference conducted by the Principal or the Principal's designee or the Superintendent between the pupil and, whenever practicable, the teacher or supervisor or school employee who referred the pupil to the Principal or the Principal's designee or the Superintendent. At the conference, the pupil shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension, and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.
3. The Principal or the Principal's designee or the Superintendent may suspend a pupil without affording the pupil an opportunity for a conference only if the Principal or the Principal's designee or the Superintendent determines that an emergency situation exists.

"Emergency situation" means a situation determined by the Principal, the Principal's designee, or the Superintendent to constitute a clear and present danger to the lives, safety, or health of pupils or school personnel. If a pupil is suspended without a conference prior to suspension, both the parent and the pupil shall be notified of the pupil's right to a conference, and the pupil's right to return to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

4. At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. Whenever a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.
5. The Principal shall report the suspension of the pupil, including the cause therefore, to the Superintendent. All suspensions during a school year shall be reported to the Board two times during the school year.
6. The parent or guardian of any pupil shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior.
7. No penalties may be imposed on a pupil for failure of the pupil's parents or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at such conference.
8. In a case where expulsion from school or suspension for the balance of the semester from continuation school is being processed by the Board, the Superintendent or other person designated by the Superintendent in writing may extend the suspension until such time as the Board has rendered a decision in the action. However, an extension may be granted only if the Superintendent or the Superintendent's designee has determined that, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension, the purpose of the meeting shall be to decide upon the extension of the suspension order and may be held in conjunction with the initial meeting on the merits of the suspension. If the pupil is a foster child, as defined in Education Code section 48853.5, the Superintendent or designee shall also invite the pupil's educational rights holder, attorney, and the county social worker to participate in the meeting. If the pupil is an Indian child, as defined in Section 224.1 of the Welfare and Institutions Code, the Superintendent or designee shall also invite the pupil's tribal social worker and, if applicable, county social worker to participate in the meeting.
9. If suspension is ordered by the Principal, a Principal's designee or the Superintendent, the pupil or the pupil's parent or guardian shall have the right to request a meeting with the Superintendent or the Superintendent's designee to discuss the causes, the duration, the

school policy involved, and other matters pertinent to the suspension. The meeting shall be held within a reasonable time after receipt of the request.

10. A pupil suspended from school for any of the reasons in Education Code sections 48900 and 48900.2, which include the reasons in provisions C 1 through 15 and 20, may be assigned by the Principal to a supervised suspension classroom for the entire period of suspension pursuant to Education Code section 48911.1 if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel has not been initiated.

#### **G. Suspension By The Board**

The Board may suspend a pupil from school for any of the acts in provision C within the limitations provided in provision E.

The Board shall, unless a request has been made to the contrary, hold closed sessions if the Board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of current law.

Before calling a closed session to consider these matters, the Board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the Board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the Board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the Board in closed session. In the event that a written request is served upon the secretary of the Board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

#### **H. Procedures For Expulsion By The Board**

Only the Board may expel a pupil. The following procedures shall apply to any expulsion:

1. The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 school days after the date the Principal or the Superintendent determines that the pupil has committed any of the acts enumerated in provision C, unless the pupil requests, in writing, that the hearing be postponed. The pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the Board.

In the event that compliance by the Board with the time requirements for the conducting of an expulsion hearing is impracticable, the Superintendent or the Superintendent's designee may, for good cause, extend the time period for the holding of the expulsion

hearing for an additional five schooldays. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

2. Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days before the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the District which relate to the alleged violation; a statement of the parent, guardian or pupil's obligation to inform the District and any school district in which subsequently enrolled if the pupil was expelled from his or her previous school district for any of the offenses listed in provisions (a) or (c) of Section 48915 or assault or battery as defined in Section 242 of the Penal Code on a school employee; and the opportunity for the pupil or the pupil's parent or guardian to appear in person or to employ and be represented by counsel or a non-attorney adviser, to inspect and obtain copies of all documents to be used 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. All documents will be available to the pupil and/or parents two days before the hearing. If the student is a foster child as defined by Education Code section 48853.5, a homeless child as defined by 42 U.S.C. 11434a(2), or an Indian child as defined in Welfare and Institutions Code section 224.1, the District shall provide notice of any expulsion hearing in accordance with Education Code section 48918.1.
3. The Board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days before the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the Board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled.

If the Board or the hearing officer or administrative panel appointed under provision 4 below to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel or non-attorney adviser of the pupil shall also be allowed to attend the closed deliberations.

4. In lieu of conducting an expulsion hearing itself, the Board may contract with the county hearing officer, or with the Office of Administrative Hearings for a hearing officer to conduct the hearing. The Board may also appoint an impartial administrative panel of three or more certificated persons, none of whom shall be members of the Board or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this provision.
5. Within three school days following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the Board. If

the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to the classroom instructional program from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the pupil requests another school placement in writing. Before the placement decision is made by the parent, guardian, or responsible adult, the Superintendent or the Superintendent's designee shall consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the pupil committed any of the acts specified in subdivision (c) of Section 48915, but does not recommend expulsion, the pupil shall be immediately reinstated and may be referred to his or her prior school or another comprehensive school, or, pursuant to the procedures set forth in Section 48432.5, a continuation school of the school district. The decision not to recommend expulsion shall be final.

6. If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the Board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the Board may order.
7. The decision of the Board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this provision, no evidence to expel shall be based solely upon hearsay evidence. The Board or the hearing officer or administrative panel may, upon a finding that good cause exists, 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 of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations that shall be examined only by the Board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.
8. A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
9. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the Board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in provision C.

10. Whether an expulsion hearing is conducted by the Board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the Board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent to the pupil or the pupil's parent or guardian and shall be accompanied by notice of the right to appeal the expulsion to the County Board. The written notice also shall inform the pupil's parent or guardian of the obligation under law to inform any new school district of the pupil's expulsion.

A decision of the Board whether to expel a pupil shall be made within 10 school days following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the Board does not meet on a weekly basis, the Board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the Principal or the Superintendent, unless the pupil requests in writing that the decision be postponed.

11. The Board shall maintain a record of each expulsion, including the cause for the expulsion. Records of expulsions shall be non-privileged, disclosable public records.
12. The expulsion order and the causes for the expulsion shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.
13. Effective July 1, 1996, if there is an appropriation of state funds, the Board before the hearing is commenced or an administrative panel after the hearing is commenced may issue personal subpoenas for the personal appearance of percipient witnesses pursuant to Education Code section 48918(i)(1) through (4).

#### 14. SUBPOENAS

The Board before the hearing is commenced or an administrative panel after the hearing is commenced may issue subpoenas for the personal appearance of percipient witnesses pursuant to Education Code section 48918(i)(1) through (4). The Superintendent is hereby delegated the authority to issue subpoenas in these matters on behalf of the Board consistent with current law and this Board Policy since the Board only regularly meets once per month. Subpoenas shall be issued by the Superintendent for the personal attendance of percipient witnesses only if all of the following conditions are met: (1) The request for the subpoena is completed and submitted to the Superintendent at least six (6) calendar days prior to the date of the hearing; (2) The request is signed and dated by the requesting party; (3) The percipient witness can be subpoenaed and is available to testify; (4) The requesting party has provided a complete summary of the suspected or proposed testimony of the witness in sufficient detail so that a reasonable determination can be

made as to whether the individual is a percipient witness; (5) The request sufficiently identifies the address(es) and telephone number(s) of the witness to facilitate service of the subpoena; (6) The request identifies efforts to contact the witness and to inform the witness about the possible need for a subpoena; (7) The request must be accompanied by payment for witness fees (\$35.00 per day) and mileage reimbursement unless there is an affidavit under penalty of perjury for inability to pay.

The Superintendent may issue subpoenas and not reveal the identity of the witness consistent with protecting a witness pursuant to Education Code section 48918(f). If the Superintendent determines not to issue a subpoena, the Superintendent shall give the reason(s) therefore in writing prior to the expulsion hearing. The party whose request was denied, if he/she wishes to appeal the denial, must make the request again at the start of the expulsion hearing and provide the reason(s) why the subpoena should have issued. At the hearing the Board or any Administrative Panel shall make a determination on the request and make a final decision consistent with this policy.

#### 15. Special Rules for Sexual Assault and Sexual Battery Cases

1. In a hearing in which a pupil is alleged to have committed or attempted to commit a sexual assault as specified in subdivision (n) of Section 48900 or to have committed a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall be given five days' notice prior to being called to testify, and 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 or her testimony. Before a complaining witness testifying, support persons shall be admonished that the hearing is confidential. This subdivision shall not preclude the person presiding over an expulsion hearing from removing a support person whom the presiding person finds is disrupting the hearing. If one or both of the support persons is also a witness, the provisions of Section 868.5 of the Penal Code shall be followed for the hearing.
2. If the hearing is to be conducted at a public meeting, and there is a charge of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public 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.
3. In hearings that include an allegation of committing or attempting to commit a sexual assault as specified in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, evidence of specific instances, of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence to be heard. Before the

person conducting the hearing makes the determination on whether extraordinary circumstances exist requiring that specific instances of a complaining witness' prior sexual conduct be heard, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility 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 is not admissible for any purpose.

**I. Denial Of Enrollment By The Board To An Individual Who Has Been Expelled From Another School District**

1. The Board shall deny enrollment to an individual pursuant to Education Code section 48915.2 who has been expelled from another school district for any of the offenses described in Education Code sections 48915(a) or (c) during the term of the expulsion.
2. The Board may determine to permit an individual who has been expelled from another school district for any of the offenses described in Education Code sections 48915(a) or (c) after the term of the expulsion if it has been determined pursuant to a hearing held in compliance with provision H of this Policy that the individual does not pose a danger to either pupils or employees. Any such permitted enrollment also is subject to one of the following conditions:
  - a. The individual has established legal residence in the District pursuant to Education Code section 48200; or
  - b. The individual is enrolled in the District pursuant to an authorized inter-district attendance agreement pursuant to Education Code sections 46600 *et. seq.*
3. Pursuant to Education Code section 48915.1, the Board shall hold a hearing in compliance with provision H of this Policy if it receives a request from an individual who has been expelled from another school district for any offense other than those described in Education Code sections 48915(a) or (c). The Board may determine to deny enrollment to such an individual for the remainder of the expulsion period after a determination has been made, pursuant to a hearing that the individual poses a potential danger to either pupils or employees.

The Board, when making its determination whether to enroll an individual who has been expelled from another school district for any offense other than those described in Education Code sections 48915(a) and (c), may consider the following options:

- a. Deny enrollment; or
- b. Permit enrollment; or

- c. Permit conditional enrollment.

**J. Expulsions Under Particular Circumstances**

1. Upon recommendation by the Principal, Superintendent or administrative panel, the Board shall order a pupil expelled upon finding that the pupil committed an act listed below at school or at a school activity off school grounds:
  - a. Possessing, selling or otherwise furnishing a firearm. This provision applies to an act of possessing a firearm only if the possession is verified by an employee of the district.
  - b. Brandishing a knife at another person.
  - c. Unlawfully selling a controlled substance listed in Health and Safety Code section 11053 *et seq.*
  - d. Committing or attempting to commit a sexual assault as defined in Education Code section 48900(n), or committing a sexual battery as defined in Education Code section 48900(n).
  - e. Possession of an explosive. The term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.
2. The Principal or Superintendent shall recommend the expulsion of a pupil or any of the following acts committed at school or at a school activity off school grounds, unless the Principal or Superintendent finds that expulsion is inappropriate, due to the particular circumstance:
  - a. Causing serious physical injury to another person, except in self-defense.
  - b. Possession of any knife, explosive, or other dangerous object of no reasonable use to the pupil. The term "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.
  - c. Unlawful possession of any controlled substance listed in Health and Safety Code section 11053 *et seq.*, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
  - d. Robbery or extortion.

- e. Assault or battery as defined in Penal Code sections 240 and 242 upon any school employee.
3. Upon recommendation by the Principal, Superintendent or administrative panel, the Board may order a pupil expelled upon finding that the pupil committed an act listed in subparagraph 2 immediately above or in Education Code sections 48900(a) through (e). A decision to expel also shall be based on a finding of one or both of the following:
  - a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or
  - b. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
4. Upon recommendation by the Principal, Superintendent or administrative panel, the Board may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds committed an act listed in Education Code sections 48900(f) through (o) or Education Code sections 48900.2 or 48900.3. A decision to expel also shall be based on a finding of one or both of the following:
  - a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or
  - b. Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
5. The Governing Board shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) of Section 48915 [subparagraphs 2, 3, and 4 immediately above] to a program of study that meets all of the requirements listed at the end of provision 1 immediately above unless otherwise allowed by Section 48915 (f).

**K. Expulsion Orders**

1. Pursuant to Education Code section 48916.1, at the time an expulsion of a pupil is ordered, the Board shall ensure that an education program is provided to the pupil who is subject to the expulsion order for the period of the expulsion order within the requirements and limitations of law.
2. An expulsion order shall remain in effect until the Board orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other those described in Education Code section 48915(c), the 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 pursuant to Education Code section 48916. For a pupil who has been expelled pursuant to Education Code section 48915(c), the Board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission, except that the Board may set an earlier date for readmission

on a case-by-case basis. Whenever a readmission is denied, a review for readmission shall occur again no later than at the end of the next second semester.

3. The Board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special assessments, job training, counseling, employment, community service, or other rehabilitative programs.
4. The Superintendent shall review all requests for readmission, and shall review all expelled students prior to the time required to do so. The review shall include giving the parent/legal guardian a reasonable opportunity for a conference on the expulsion and the possible readmission, an examination of the expulsion records and information about the pupil after the expulsion, and the preparation of a written report to the Board which must be given to the parent/legal guardian at least five days prior to the meeting of the Board to consider the report. The parent/legal guardian may submit a written response and/or may attend the Board meeting where the Board makes a final determination on the readmission. The Board shall readmit the pupil unless it finds 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 District.
5. If the Board denies the readmission of an expelled pupil, the Board shall make a determination either to continue the placement of 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.
6. The Board shall provide written notice to the expelled pupil and the pupil's parent/legal guardian describing the reasons for denying the pupil's re-admittance into the regular program. This written notice also shall include the determination of the educational program for the expelled pupil. The expelled pupil shall enroll in that educational program unless the parent/legal guardian elects to enroll the pupil in another district.

**L. Suspension Of Order To Expel**

1. The Board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. During the period of the suspension of the expulsion order, the pupil shall be deemed to be on probationary status.
2. The suspension of an expulsion order under this provision may be revoked by the Board upon the pupil's commission of any of the acts enumerated in Education Code section 48900 or for any violation of the District's rules and regulations governing pupil

conduct. Upon revocation of the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order. When the Board revokes the suspension of an expulsion order, the pupil may be expelled under the original expulsion order.

3. Upon satisfactory completion of the rehabilitation assignment of a pupil, the pupil shall be reinstated by the Board. Upon reinstatement, the Board also may order the expungement of any or all records of the expulsion proceedings.
4. A decision of the Board to suspend 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.

**M. Expulsion Data And Reports**

1. The Superintendent or designee is directed to maintain the data and file the necessary annual form with the State Department of Education as provided for in Education Code section 48916.1(e).
2. Prior to the suspension or expulsion of any pupil, the Superintendent or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code section 245; acts which may involve the possession or sale of narcotics or a controlled substance, or possession of weapons or firearms in violation of Penal Code section 626.9 and 626.10. Within one day after a pupil's suspension or expulsion the Superintendent 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 sections 48900 (c) or (d) relating to the possession, use, offering or sale of controlled substance, alcohol or intoxicants of any kind.

**N. Coursework For Suspended Pupils**

Upon request by the parent, legal guardian, or other person holding the right to make educational decisions for the pupil, a teacher shall provide a pupil who has been suspended from school for two or more school days the homework that the pupil would otherwise have been assigned. If the teacher is unable to grade any such assignment(s) before the end of the academic term, then the pupil's grade shall not be impacted and the assignment(s) shall not be included in the calculation of the pupil's overall grade in the class.

**O. Additional Notice Requirements**

A foster child's educational rights holder, attorney, and county social worker and an Indian child's, as defined in Section 224.1 of the Welfare and Institutions Code, tribal social worker and, if applicable, county social worker shall have the same rights a parent or guardian of a child has to receive a suspension notice, expulsion notice, manifestation determination notice, involuntary transfer notice, and other documents and related information. Any notice for these purposes may be provided in the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Legal Reference:

Education Code sections 47606.2, 48900-48925, 48918.1

Health and Safety Code sections 104559

Business and Professions Code section 22950.5

Date Policy Adopted By The Board: February 9, 2000

Dates Policy Revised By The Board: March 20, 2002; January 13, 2005; May 17, 2007; June 5, 2008; March 1, 2012; July 18, 2013; June 4, 2015; March 10, 2016; June 22, 2017; June 22, 2018; November 14, 2019; July 9, 2020; August 3, 2023; November 19, 2024