STUDENTS

Suspension and Expulsion/Due Process

Students in Venture Academy

Definitions

Suspension means removal of a student 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/program where the student will receive continuing instruction for the length of the day prescribed by the Venture Academy Governing Board (Board) for students of the same grade level.

2. Referral to a certificated employee designated by the program administrator to advise students.

3. 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 program administrator or designee as provided in Education Code Section 48910, so long as removal from a particular class does 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 personnel.

Notice of Regulations

At the beginning of each school year, the program administrator of each school/program shall ensure that all students and parents/guardians are notified in writing of all school/program rules related to discipline, including suspension and expulsion.

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in "Additional Grounds for Suspension and Expulsion: Grades 4-12" below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury.

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 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 Health and Safety Code sections 11053-11059, alcoholic beverage, or intoxicant of any kind.

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code sections 11053-11059, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the 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.

7. Stole 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, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products.

9. Committed an obscene act or engaged in habitual profanity or vulgarity.

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.

11. Knowingly received stolen school/program property or private property.

12. Possessed an imitation firearm.

    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.

13. Committed or attempted to commit a sexual assault as defined in Penal Code sections 261, 266c, 286, 287, 288, or 289, or former 288a, or committed a sexual battery as defined in Penal Code Section 243.4.

No student may be disciplined prior to a finding being made pursuant to the grievance process established by 34 CFR 106.45, in accordance with Administrative Regulation 5145.71 Title IX Sexual Harassment Complaint Procedures. However, Venture Academy may conduct a non-discipline removal of a student in emergency situations where there is an immediate threat to the health or safety of any student or other individual.

14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.

15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

16. Engaged in, or attempted to engage in, hazing.

    Hazing means a method of initiation or pre-initiation into a student 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 student. Hazing does not include athletic events or school-sanctioned events.

17. 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 an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student(s) in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

    Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code sections 48900.2, 48900.3, or 48900.4 and below in "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

    Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. 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.

Electronic act means the creation or transmission originated on or off the school site 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:

a. A message, text, sound, video, or image.

b. A post on a social network internet website, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age or for a person of the student's age and disability.

Burn page means an internet website created for the purpose of causing a reasonable student any of the effects of bullying described above.

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated.

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile.

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet.

When a student has been suspended, or other means of correction have been implemented against the student, for an incident of racist bullying, harassment, or intimidation, the program administrator or designee may, as appropriate, engage both the victim and perpetrator in a restorative justice practice suitable to the needs of the students. Additionally, the program administrator or designee may also require the perpetrator to engage in a culturally sensitive program that promotes racial justice and equity and combats racism and ignorance and shall regularly check on the victim to ensure that the victim is not in danger of suffering from any long-lasting mental health issues.

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code Section 31.

19. Made terrorist threats against school officials and/or school property.

    A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of $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 out the crime.

However, students who voluntarily disclose their use of a controlled substance, alcohol, an intoxicant of any kind, or tobacco in order to seek help through services or supports may not be suspended solely for that disclosure.

A student may not be suspended or expelled for disruption or willful defiance.

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code Section 212.5.

   Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimating, hostile, or offensive educational environment.

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code Section 233.

   Hate violence means any act punishable under Penal Code sections 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics.

3. Intentionally engaged in harassment, threats, or intimidation against school personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment.

Suspension from Class by a Teacher

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code Section 48900 and listed as items # 1-19 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level.

When suspending a student from class, the teacher shall immediately report this action to the program administrator or designee and send the student to the program administrator or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended.

As soon as possible after the teacher suspends the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a program administrator shall attend if requested by the parent/guardian or teacher.

A student suspended from class shall not be returned to class during the period of suspension without the approval of the teacher of the class and the program administrator or designee.

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended.

Additionally, a teacher may refer a student, for any of the acts specified above in Education Code Section 48900, to the program administrator or designee for consideration of a suspension from school.

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

Suspension by Program Administrator or Program Administrator's Designee

To implement disciplinary procedures at a school site, the program administrator may, in writing, designate as the program administrator's designee another administrator or, if the program administrator is the only administrator at the school site, a certificated employee. As necessary, the program administrator may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the program administrator and the program administrator's primary designee are absent from the school site.

The program administrator or designee shall immediately suspend any student found at school or at a school activity away from school to have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required.

The program administrator or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons.

For all other offenses, a student may be suspended only when the program administrator or designee has determined that other means of correction have failed to bring about proper conduct.

When other means of correction are implemented prior to imposing suspension upon a student, including supervised suspension, the program administrator or designee shall document the other means of correction used and retain the documentation in the student's record.

Length of Suspension

The program administrator or designee may suspend a student from a school for not more than five (5) consecutive school days.

A student may be suspended from school/program for not more than twenty (20) school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school or class, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than thirty (30) school days in a school year. Venture Academy may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year.

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion.

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. *Informal Conference*: Suspension shall be preceded by an informal conference conducted by the program administrator or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the program administrator or designee.

   At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code Section 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence in the student's defense.

   This conference may be omitted if the program administrator or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference,

the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of the conference. The conference shall be held within two (2) school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school for the conference.

2. *Administrative Actions*: All requests for student suspension are to be processed by the program administrator or designee.

   A school/program employee shall report the suspension, including the name of the student and the cause for the suspension, to the program administrator or designee.

3. *Notice to Parents/Guardians*: At the time of the suspension, a school/program employee shall make a reasonable effort to contact the parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and if applicable, the county social worker, in person, by email, or by telephone.

   Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall be notified in writing of the suspension.

   This notice shall state the specific offense committed by the student.

   Additionally, the notice may state the date and time when the student may return to school.

4. *Parent/Guardian Conference*: Whenever a student is suspended, school/program officials may conduct a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school/program policy involved, and any other pertinent matter.

   If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference.

5. *Extension of Suspension*: If the Board is considering the expulsion of a suspended student from any school/program or the suspension of a student for the balance of the semester from continuation school, the program administrator or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed:

   a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard.

      This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

   b. The program administrator or designee determines, following a meeting in which the student and the student's parent/guardian were 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.

   c. If the student involved is a foster youth or Indian child, the program administrator or designee shall notify the school's educational liaison of the need to invite the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker or, if applicable, the county social worker, to attend the meeting.

   d. If the student involved is a child or youth experiencing homelessness, the program administrator or designee shall notify the school liaison for homeless students.

   e. In lieu of or in addition to suspending a student, the program administrator or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school.

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply:

1. The on-campus suspension classroom shall be staffed in accordance with law.

2. The student shall have access to appropriate counseling services.

3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.

4. The student shall be responsible for contacting their teacher(s) to receive assignments to be completed in the supervised suspension classroom and the teacher(s) shall provide all assignments and tests that the student will miss while suspended.

   If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the program administrator or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student if an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification may be made in writing.

Program Administrator's Authority to Recommend Expulsion

Unless the program administrator or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, the program administrator or designee shall recommend a student's expulsion for any of the following acts:

1. Causing serious physical injury to another person, except in self-defense.

2. Possession of any knife or other dangerous object of no reasonable use to the student.

3. Unlawful possession of any controlled substance as listed in Health and Safety Code sections 11053 - 11059, except for:

   a. The first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis.

   b. The student's possession of over-the-counter medication for use by the student for medical purposes.

   c. Medication prescribed for the student by a physician.

4. Robbery or extortion.

5. Assault or battery, as defined in Penal Code sections 240 and 242, upon any school/program employee.

In determining whether to recommend the expulsion of a student, the program administrator or designee shall act as quickly as possible to ensure that the student does not lose instructional time.

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within thirty (30) school days after the program administrator or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation.

The student is entitled to at least one 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 Board's discretion.

If the Board finds it impracticable during the regular school year to comply with these time requirements for conducting an expulsion hearing, the program administrator 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.

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed twenty (20) school days, as defined in Education Code Section 48925.

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

Stipulated Expulsion

After a determination that a student has committed an offense for which the student may be expelled, the program administrator or designee shall offer the student, the student's parent/guardian, or, when applicable, other person holding the right to make educational decisions for the student, the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after written notice of the expulsion hearing pursuant to Education Code Section 48918 has been given.

The stipulation agreement shall be in writing and shall be signed by the student, the student's parent/guardian, or, when applicable, the person holding the right to make educational decisions for the student. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of their right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion agreed to by the student, the student's parent/guardian, or when applicable, the person holding the right to make educational decisions for the student, shall be effective upon approval by the Board.

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 program administrator or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the program administrator or designee shall give the complaining witness a copy of the school's/program's suspension and expulsion policy and regulation and shall advise the witness of the right to:

1. Receive five (5) days-notice of the scheduled testimony at the hearing.

2. Have up to two (2) adult support persons present at the hearing at the time the witness testifies.

3. Have a closed hearing during the time the witness testifies.

Whenever any allegation of sexual assault or sexual battery is made, the program administrator 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.

Written Notice of the Expulsion Hearing

Written notice of the expulsion 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 proposed expulsion is based.

3. A copy of Venture Academy disciplinary rules which relate to the alleged violation.

4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code Section 48915.1, to provide information about the student's status at Venture Academy to any other district in which the student seeks enrollment.

   This obligation applies when a student is expelled for acts other than those described in Education Code sections 48915(a) or (c).

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a non-attorney adviser.

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Non-attorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.

7. The opportunity to confront and question all witnesses who testify at the hearing.

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

Additional Notice of Expulsion Hearing for Foster Youth, Students Experiencing Homelessness, and Indian Children

If the student facing expulsion is a foster student or Indian child, the program administrator or designee shall also send notice of the hearing to the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, county social worker, at least ten (10) calendar days prior to the hearing.

If the student facing expulsion is a student experiencing homelessness, the program administrator or designee shall also send notice of the hearing to the school liaison for homeless students at least ten (10) calendar days prior to the hearing.

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call.

Conduct of Expulsion Hearing

1. *Closed Session:* Notwithstanding Education Code Section 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five (5) days prior to the hearing that the hearing be a public meeting.

   If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated.

   Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session.

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to testify in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, a videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television.

2. *Record of Hearing:* A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made.

3. *Subpoenas:* Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the program administrator or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion.

   After the hearing has commenced, the Board or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure sections 1985-1985.2 and enforced in accordance with Government Code Section 11455.20.

   Any objection raised by the student or the program administrator or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding.

   If the Board determines, or if the administrative panel, finds and submits to the Board, 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 described in item #4 below.

4. *Presentation of Evidence:* Technical rules of evidence shall not apply to the expulsion hearing, but relevant 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 Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code Section 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12," and "Additional Grounds for Suspension and Expulsion: Grades 4-12," above.

   Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from

witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological 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.

5. *Testimony by Complaining Witnesses:* The following procedures shall be observed when a hearing involves 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 (2) adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during their testimony.

   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 who is disrupting the hearing.

   e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code Section 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 given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this 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 a 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, Venture Academy shall provide a nonthreatening environment.

      i. Venture Academy shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

ii. 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 the complaining witness may leave the hearing room.

iii. 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 normal school hours, if there is no good cause to take the testimony during other hours.

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

6. *Decision:* The Board's decision whether to expel a student shall be made within forty (40) school days after the student is removed from school, unless the student requests in writing that the decision be postponed.

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Additionally, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or 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 applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within forty (40) school days of the student's removal from school, unless the student requests that the decision be postponed.

The hearing officer or administrative panel shall, within three (3) school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's . The decision to not recommend expulsion shall be final.

If expulsion is recommended, 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 presented at the hearing. The Board 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 Board may order.

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation.

Final Action by the Board

Whether the expulsion hearing is conducted in closed or open session by the Board, or an administrative panel, or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public.

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within Venture Academy. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred.

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which shall include, but not be limited to, periodic review and a preliminary assessment for readmission at least forty-five (45) days before the end of the expulsion term. The plan shall be tailored to the student's needs and address the behavior that led to the expulsion. The plan may be developed in consultation with Venture Academy staff who have knowledge or special expertise regarding the student and include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

The Board shall assist the student in locating accessible opportunities that are necessary to complete the requirements of the student's plan for rehabilitation, including, but not limited to, opportunities for counseling and community service.

The Board shall not require the student or the student's parents/guardians to pay for any costs or services the Board determines to be necessary for the student to complete the student's plan of rehabilitation.

With parent/guardian 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 returning to school.

Written Notice to Expel

The program administrator or designee shall send written notice of the decision to expel to the student, or if the student is under 18 years of age, to the student's parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12," or "Additional Grounds for Suspension and Expulsion: Grades 4-12."

2. A description of readmission procedures.

3. Notice of the right to appeal the expulsion to the County Board of Education.

4. Notice of the alternative educational placement to be provided to the student during the time of expulsion.

5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code Section 48915.1.

Decision to Suspend Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion order, the Board shall take into account the following criteria:

1. The student's pattern of behavior.

2. The seriousness of the misconduct.

3. The student's attitude toward the misconduct and their willingness to follow a rehabilitation program.

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation.

   This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program.

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status.

3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12," above, or violates any of the school'/program's rules and regulations governing student conduct.

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a Venture Academy program.

   Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings.

6. The program administrator 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 inform the parent/guardian of the right to appeal the expulsion to the County Board of Education, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling school, pursuant to Education Code Section 48915.1(b).

7. Suspension of the enforcement 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.

Appeal

If a student is expelled from school, the student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board of Education. The appeal must be filed within thirty

(30) days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation.

If the student submits a written request for a copy of the written transcripts and supporting documents from Venture Academy simultaneously with the filing of the notice of appeal with the County Board of Education, Venture Academy shall provide the student with these documents within ten (10) school days following the student's written request.

Notice to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the 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 Section 245.

The program administrator or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code section 48915(c)(1) or (5) or Penal Code sections 626.9 and 626.10.

Within one (1) school day after a student's suspension or expulsion, the 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 section 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind.

Placement During Expulsion

The Board shall refer expelled students to a program of study that is:

1. Appropriately prepared to accommodate students who exhibit discipline problems.

2. Not provided at a comprehensive middle, junior, or senior high school, or at any elementary school, unless the program is offered at a community day school established at any of these.

3. Not housed at the school site attended by the student at the time of suspension.

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school.

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12.

The Board shall receive notification from the County Superintendent of Schools, if at any time during the expulsion term and for any reason the County Superintendent is unable to serve the students expelled by Venture Academy. Upon notification, the Board shall ensure that another educational program is provided to the student for the duration of the expulsion order which may include entering into an agreement with a County Superintendent in another county to provide education services for Venture Academy's expelled students.

Upon the change of a student's eligibility for an educational program or at the request of the student's parent/guardian, the Board shall review with the student and the student's parent/guardian the educational options for expelled students as outlined in the plan to provide education services to expelled students pursuant to Education Code 48926.

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The program administrator or designee shall hold a conference with the student's parent/guardian, or other person holding the right to make educational decisions for the student, and the student.

   At the conference, the student's rehabilitation plan shall be reviewed and the program administrator or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed, and the student and the student's parent/guardian or other person holding the right to make educational decisions for the student shall be asked to indicate in writing their willingness to comply with these regulations.

   As part of the review process, the Board shall, upon being informed by the program administrator or designee, indicate whether the student had access to the necessary resources to complete the student's rehabilitation plan. A rehabilitation plan that is not completed due to financial or transportation barriers or a lack of viable opportunities to complete a term of the rehabilitation plan shall not be a basis to deny the readmission of a student.

2. The program administrator or designee shall transmit to the Board a recommendation regarding readmission.

   The Board shall consider this recommendation in closed session. If a written request for open session is received from the student's parent/guardian or other person holding the right to make educational decisions for the student, or adult student, it shall be honored to the extent that privacy rights of other students are not violated.

3. If the readmission is granted, the program administrator or designee shall notify the student and student's parent/guardian, or other person holding the right to make educational decisions for the student, by registered mail, of the Board's decision regarding readmission.

4. The Board may deny readmission only if it finds that the student either:

    a. Has not satisfied the conditions of the rehabilitation plan despite having access to the necessary resources and viable opportunities to complete their rehabilitation plan.
    b. That the student continues to exhibit documented behaviors that the student was expelled for or is documented to have committed one or more new acts during the expulsion term that would make the student eligible for another expulsion.

5. If the Board denies the readmission of a student pursuant to Item #4, the expulsion term may be extended for one semester at a time, at which point the student shall be reassessed for readmission pursuant to Item #1.

6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

7. The Board shall provide written notice to the expelled student and student's parent/guardian, or other person holding the right to make educational decisions for the student, describing the reasons for denying readmittance into the regular program.

    This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

No student shall be denied readmission into the school based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system.

Maintenance of Records

Venture Academy shall maintain a record of each suspension and expulsion, including its specific cause(s).

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school.

The program administrator or designee shall, within five (5) working days, honor any other district's request for information about an expulsion from Venture Academy.