

Berkeley Unified School District

2025-2026

**POSITIVE BEHAVIOR
MATRIX
Secondary - Grades 6 - 12**



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MISSION, VISION AND VALUES of the BERKELEY UNIFIED SCHOOL DISTRICT

The Mission, Vision, Values, and Goals of Berkeley Unified are encapsulated in the four E's:

- Excellence
- Equity
- Engagement
- Enrichment

Excellence in Learning, in Teaching, and in Service to our Students and Families

Equity in Access, in Resource Allocation, and Educational Outcomes

Engagement with Parents, Guardians, Families, and Community

Enrichment in Curriculum with Music & the Arts, Libraries, Gardens & Nutrition, Science & Health, Physical Education & Sports

Mission

The Mission of the Berkeley Unified School District is to enable and inspire our diverse student body to achieve academic excellence and make positive contributions to our world.

Vision

Our Students are curious and creative learners who succeed through personal initiative and sustained effort to reach high academic goals. They are critical thinkers who seek knowledge and possess technological competence and collaborative skills. Our students embrace diversity, act responsibly, and contribute to our community.

Our Educators believe that all students can meet or exceed rigorous academic standards. Teachers, staff, and administrators together form a rich professional learning community where all are supported to hone our professional craft and improve our effectiveness. Through the examination of our instructional practices and data, we adjust our teaching and operational systems in order to continuously improve. We are responsible for the stewardship of our fiscal resources and fair and equitable in their distribution.

Our Families and Community are integral to the success of our students and schools. Families are active, engaged and welcomed partners in their child's education who give valued input and participate in making important decisions about our academic and enrichment programs. Our diverse community is passionate about equitable educational outcomes for all students. Our civic and community organizations partner with us to promote family engagement and the well-being and success of our students.

Our Schools are vital centers of community life enriched by the diversity of our city and welcoming to all families. Each classroom offers an engaging and culturally relevant curriculum that builds on students' interests and abilities. Student needs, as identified by regular assessment, inform our teaching and guide appropriate and effective intervention services. We offer an enriched learning environment and a comprehensive system of support to address the needs of the whole child.

Values and Beliefs of Berkeley Unified School District:

- Students are our priority.
- We take pride in our diversity.
- We hold high expectations for ourselves and our students.
- We treat each other with respect and act with integrity

Berkeley Unified School District

Positive Behavior Matrix

The Positive Behavior Matrix (PBM) was developed for all schools within the Berkeley Unified School District and establishes a uniform discipline code for the district. Additionally, the PBM outlines the Alternative Means of Correction and interventions that school sites may use, as well as consequences that may be issued for inappropriate student behaviors. Interventions and consequences are most effective with students when they deal directly with the problems fairly, impartially, and equitably, and are culturally responsive. Therefore, the BUSD Positive Behavior Matrix provides schools with supportive responses to behavior practices.

Each administrator must consider several factors in determining the appropriate interventions, AMCs, and consequences to correct inappropriate student behaviors. These factors include, but are not limited to:

- Age, health, and maturation of the student
- Cultural considerations
- Are behaviors related to a student's disability (IEP or Section 504)
- Student's understanding of the impact of their behavior
- Student's willingness to repair the harm caused by their behavior
- Seriousness of the behavior offense and the degree of harm caused
- Impact of the incident on overall school community
- Whether the student's violation threatened the safety of any student or staff member
- The likelihood that a lesser intervention, consequence or AMC would adequately address the violation

Situations not specifically addressed in this plan or unusual or extreme cases will be dealt with in accordance with District Policy and the California Education Code.

Remember, Home/School communication is critical to our student's success. Therefore, ALL interventions, including most Alternative Means of Correction (AMC), shall include a parent contact and/or conference. We want our families to be partners in education at all times.

On the first instance of inappropriate or disruptive behavior, use one or more interventions/AMCs from the lowest level indicated for that behavior, or any lower level. If the same behavior is repeated during the same school year, one or more interventions/AMCs or disciplinary responses from the next highest level may be used. However, if action warrants, students may be given consequences of second, third, or fourth offense on the first offense. In certain circumstances, disciplinary responses that remove students from the classroom or school environment may be necessary. In these cases, the goal is to make sure that students receive educational services, learn alternative behaviors, and work to repair any harm they may have caused. **Level 1-4 for responses (grades 6-12) can be found on page 30.** For every potential education code violation, the following courses of action must be done:

- Ensure due process
- Conference with student
- Collect statements from other witnesses
- De-escalate student, attempt to identify root or ancillary cause for behavior, reteach identified behavior skills, facilitate student re-entry
- Contact parent/guardian
- Review discipline history
- Document current incident in Infinite Campus
- Hold re-entry meeting with student if suspended (upon return)

SECONDARY POSITIVE BEHAVIOR MATRIX

CA Ed Code	INFRACTION DESCRIPTION	MIDDLE SCHOOL Grade 6 – Grade 8 Potential Actions		HIGH SCHOOL Grade 9 – Grade 12 Potential Actions	
		1 st offense		1 st offense	
48900 (a)(1)	Caused, attempted to cause, or threatened to cause physical injury to another person.		• Level 1 Response • Counseling • Alternative Means of Correction (AMC) • Suspension 1 day • Other disciplinary response		• Level 1 Response • Counseling • AMC • Suspension 1-2 days • Other disciplinary response
		2 nd offense	• Level 2 Response • Counseling • Refer to SST/COST • AMC • Suspension 1-2 days	2 nd offense	• Level 2 Response • Counseling • Refer to SST/COST • AMC • Suspension 2-3 days

			● Other disciplinary response		● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (a)(2)	Willfully used force or violence upon the person of another, except in self-defense.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) ● Suspension 1 day ● Other disciplinary response	1 st offense	● Level 1 Response ● Counseling ● AMC ● Suspension 1-2 days ● Other disciplinary response
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling	4 th offense	● Level 4 Response ● Counseling

			● Refer to SST/COST ● AMC ● Suspension 3-5 days		● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (b)	Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) ● Suspension 1 day ● Other disciplinary response	1 st offense	● Level 1 Response ● Counseling ● AMC ● Suspension 1-2 days ● Other disciplinary response
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (c)	Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) ● Suspension 1 day ● Other disciplinary response	1 st offense	● Level 1 Response ● Counseling ● AMC ● Suspension 1-2 days ● Other disciplinary response

	intoxicant of any kind.	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (d)	Unlawfully offered, arranged, or negotiated to sell a controlled substance, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) ● Suspension 1 day ● Other disciplinary response	1 st offense	● Level 1 Response ● Counseling ● AMC ● Suspension 1-2 days ● Other disciplinary response
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST

			• AMC • Suspension 2-3 days		• AMC • Suspension 3-4 days
		4 th offense	• Level 4 Response • Counseling • Refer to SST/COST • AMC • Suspension 3-5 days	4 th offense	• Level 4 Response • Counseling • Refer to SST/COST • AMC • Suspension 4-5 days
48900 (e)	Committed or attempted to commit robbery or extortion.	1 st offense	• Level 1 Response • Counseling • Alternative Means of Correction (AMC) • Suspension 1 day • Other disciplinary response	1 st offense	• Level 1 Response • Counseling • AMC • Suspension 1-2 days • Other disciplinary response
		2 nd offense	• Level 2 Response • Counseling • Refer to SST/COST • AMC • Suspension 1-2 days • Other disciplinary response	2 nd offense	• Level 2 Response • Counseling • Refer to SST/COST • AMC • Suspension 2-3 days • Other disciplinary response
		3 rd offense	• Level 3 Response • Counseling • Refer to SST/COST • AMC • Suspension 2-3 days	3 rd offense	• Level 3 Response • Counseling • Refer to SST/COST • AMC • Suspension 3-4 days
		4 th offense	• Level 4 Response • Counseling • Refer to SST/COST • AMC • Suspension 3-5 days	4 th offense	• Level 4 Response • Counseling • Refer to SST/COST • AMC • Suspension 4-5 days
48900 (f)		1 st offense	• Level 1 Response	1 st offense	• Level 1 Response

	Caused or attempted to cause damage to school property or private property.		● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
48900 (g)	Stole or attempted to steal school property or private property.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC)	1 st offense	● Level 1 Response ● Counseling ● AMC

			Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
48900 (h)	Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC)	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a

	cigarettes, smokeless tobacco, snuff, chew packets, and betel.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
48900 (i)	Committed an obscene act or engaged in habitual profanity or vulgarity	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC)	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a

			Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
48900 (j)	Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in

			<i>the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>		<i>the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (k)	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.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.	1 st offense	● Level 1 Response ● Counseling ● AMC Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.

		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.
		4 th offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.	4 th offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response Note: SB 274, a student cannot be suspended for willful disruption and/or defiance.
48900 (I)	Knowingly received stolen school property or private property.	1 st offense	● Level 1 Response ● Counseling	1 st offense	● Level 1 Response ● Counseling ● AMC

			Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	- Level 2 Response - Counseling - Refer to SST/COST - AMC - Other disciplinary response	2 nd offense	- Level 2 Response - Counseling - Refer to SST/COST - AMC - Other disciplinary response
		3 rd offense	- Level 3 Response - Counseling - Refer to SST/COST - AMC - Suspension 1 day - Other disciplinary response	3 rd offense	- Level 3 Response - Counseling - Refer to SST/COST - AMC - Suspension 1 day - Other disciplinary response
		4 th offense	- Level 4 Response - Counseling - Refer to SST/COST - AMC - Suspension 1-2 days - Other disciplinary response	4 th offense	- Level 4 Response - Counseling - Refer to SST/COST - AMC - Suspension 1-2 days - Other disciplinary response
48900 (m)	Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica of a firearm that is so	1 st offense	- Level 1 Response - Counseling - Alternative Means of Correction (AMC)	1 st offense	- Level 1 Response - Counseling - AMC

	substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (n)	Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.	1 st offense	● Level 4 Response ● Notify law enforcement ● File CPS Report ● Contact Director of Student Services and Title IX Coordinator ● 5 day suspension and and recommendation for expulsion	1 st offense	● Level 4 Response ● Notify law enforcement ● File CPS Report ● Contact Director of Student Services and Title IX Coordinator ● 5 day suspension and and recommendation for expulsion

	Note: Contact Title IX Coordinator immediately upon accusation, and prior to any disciplinary action. Title IX Coordinator will conduct the investigation.	2 nd offense	● Level 4 Response ● Notify law enforcement ● File CPS Report ● Contact Director of Student Services and Title IX Coordinator ● 5 day suspension and and recommendation for expulsion	2 nd offense	● Level 4 Response ● Notify law enforcement ● File CPS Report ● Contact Director of Student Services and Title IX Coordinator ● 5 day suspension and and recommendation for expulsion
		3 rd offense	n/a	3 rd offense	n/a
		4 th offense	n/a	4 th offense	n/a
48900 (o)	Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC

			● Suspension 1-2 days ● Other disciplinary response		● Suspension 2-3 days ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
48900 (p)	Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>	1 st offense	● Level 1 Response ● Counseling ● AMC <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days

		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900 (q)	Engaged in, or attempted to engage in, hazing.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling	4 th offense	● Level 4 Response ● Counseling

			● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response		● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
48900 (r)	Engaged in an act of bullying, including, but not limited to bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>	1 st offense	● Level 1 Response ● Counseling ● AMC <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC

			● Suspension 1-2 days		● Suspension 1-2 days
48900 (t)	A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>	1 st offense	● Level 1 Response ● Counseling ● AMC <i>Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days

48900.2	Committed sexual harassment as defined in Section 212.5. <i>Note: The conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment.</i> Note: Contact Title IX Coordinator immediately upon accusation, and prior to any disciplinary action. Title IX Coordinator will conduct the investigation.	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) <i>Note: Suspension is only permitted on "first offense" if a student's presence causes a danger to persons. "First offense" refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>	1 st offense	● Level 1 Response ● Counseling ● AMC <i>Note: Suspension is only permitted on "first offense" if a student's presence causes a danger to persons. "First offense" refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
48900.3		1 st offense	● Level 1 Response	1 st offense	● Level 1 Response

	Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233. Note: In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.		● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48900.4	Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC)	1 st offense	● Level 1 Response ● Counseling ● AMC

	pupils, 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 either school personnel or pupils by creating an intimidating or hostile educational environment.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.		Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.
	Note: The section described must be sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
48900.7	Terroristic threats against school officials or school property, or both. Note: For the purposes of this section, “terroristic threat” shall include any statement, whether	1 st offense	● Level 1 Response ● Counseling ● Alternative Means of Correction (AMC) Note: Suspension is only permitted on “first offense” if a student's presence causes a	1 st offense	● Level 1 Response ● Counseling ● AMC Note: Suspension is only permitted on “first offense” if a student's presence causes a danger to persons. “First offense” refers to

	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 safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.		<i>danger to persons. "First offense" refers to the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>		<i>the first documented offense of a student in the current school year that qualifies as a violation of Education Code 48900 and/or 48915, although formal exclusionary disciplinary action may not have been taken against the student.</i>
		2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1 day ● Other disciplinary response	2 nd offense	● Level 2 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days ● Other disciplinary response
		3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	3 rd offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(A)(1)	Causing serious physical injury to another person except in self defense <i>Note: Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the</i>	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● Alternative Means of Correction (AMC) ● Suspension 1-2 days	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days
		2 nd offense	● Level 4 Response ● Counseling	2 nd offense	● Level 4 Response ● Counseling

	<i>following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.</i>		● Refer to SST/COST ● AMC ● Suspension 2-3 days		● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(A)(2)	Possession of any knife, or other dangerous object of no reasonable use to the pupil <i>Note: Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.</i>	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● Alternative Means of Correction (AMC) ● Suspension 1-2 days	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days
		2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days

		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(A)(3)	Possession of any controlled substance except for the first offense of possession of not more than one ounce of marijuana. <i>Note: Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.</i>	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● Alternative Means of Correction (AMC) ● Suspension 1-2 days	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days
		2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(A)(4)	Robbery or extortion <i>Note: Except as provided in subdivisions (c) and (e), the principal or the superintendent of</i>	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● Alternative Means of Correction (AMC)	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days

	<i>schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.</i>		● Suspension 1-2 days		
		2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days	3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(A)(5)	Assault or battery, or threat of, upon a school employee. <i>Note: Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.</i>	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● Alternative Means of Correction (AMC) ● Suspension 1-2 days	1 st offense	● Level 3 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 1-2 days
		2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days	2 nd offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 2-3 days
		3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST	3 rd offense	● Level 4 Response ● Counseling ● Refer to SST/COST

			● AMC ● Suspension 3-4 days		● AMC ● Suspension 3-4 days
		4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days	4 th offense	● Level 4 Response ● Counseling ● Refer to SST/COST ● AMC ● Suspension 4-5 days
48915(C)(1)	Possession, selling, or otherwise furnishing a firearm <i>Note: The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.</i>	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
		2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
48915(C)(2)	Brandishing a knife <i>Note: The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.</i>	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
		2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
48915(C)(3)	Selling a controlled substance	1 st offense	● Level 4 Response ● Suspension 5 day ● Contact Director of Student Services	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services

	Note: The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
48915(C)(4)	Committing or attempting to commit sexual assault or battery Note: The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services and Title IX Coordinator	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services and Title IX Coordinator
		2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services and Title IX Coordinator	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services and Title IX Coordinator
		Note: Contact Title IX Coordinator immediately upon accusation, and prior to any disciplinary action. Title IX Coordinator will conduct the investigation.			
48915(C)(5)	Possession of an explosive (See Definition) Note: The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds.	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	1 st offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services
		2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services	2 nd offense	● Level 4 Response ● Suspension 5 days ● Contact Director of Student Services

Required Actions

For every potential education code violation, the following courses of action must be done:

- Ensure due process
- Conference with student
- Collect statements from other witnesses
- De-escalate student, attempt to identify root or ancillary cause for behavior, reteach identified behavior skills, facilitate student re-entry
- Contact parent/guardian
- Review discipline history
- Document current incident in Infinite Campus
- Hold re-entry meeting with student if suspended (upon return)

In accordance with Education Code 48911, all home suspensions shall be preceded by an informal conference conducted by the principal or the principal's designee, the pupil, and whenever practicable, the teacher or supervisor or school employee who referred the pupil to the principal. At this conference, the pupil shall be informed of the reason for the disciplinary action 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. At the time of the suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone, and the parent or guardian shall be notified in writing of the suspension within 24 hours.

LEVEL 1-4 (ALTERNATIVE MEANS OF CORRECTION/INTERVENTION) RESPONSES

LEVEL 1 (Universal) Responses for Grades 6-12

Level I requires interventions that can be provided by the classroom teacher or support staff member. Behaviors are typically addressed at the time that they occur, and may not require documentation in IC. Classroom documentation and parent/guardian communication by a certificated staff member involved in the event is recommended.

- Teach and model school-wide positive behavior expectations and procedures
- Positive reinforcement, recognition and rewards for all students
- Consistent consequences for problem behaviors
- Effective procedures and supervision in non-classroom areas
- Effective instruction and classroom management
- Collaboration with families
- Active supervision and monitoring

CLASSROOM INTERVENTIONS AND RESPONSES

These interventions aim to teach and correct alternative behavior so students can learn and demonstrate safe and respectful behavior. Teachers are encouraged to try a variety of teaching and classroom management strategies.

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|---|--|
| • 1:1 Restorative conversation with student to generate solutions | • Consultation with admin/staff |
| • Adult to student relationship building activities | • Consultation with case manager and/or lead teacher |
| • Assigned & discussed restorative reflection sheet | • Review existing IEP, 504, Behavior Plan or BIP |
| • Buddy Class | • Proximity and prompting desired behavior |
| • Changed seat | • Re-teaching desired behavior |
| | • Redirect student |

- Co-develop written agreement with student
- Remind student of expected behavior

TEACHER-LED/REFERRED RESPONSES

These interventions often involve support staff. They aim to engage the student's support system to ensure successful learning and consistency of interventions or change the conditions that contribute to inappropriate or disruptive behavior.

- Conflict Resolution
- Mentoring
- Parent/Guardian Notification and relationship building
- Peer Mediation
- Refer for Behavioral Intervention Plan (BIP)
- Referral to additional school supports
- Referral to COST
- Referral to School-based Health or Mental Health Clinic
- Restorative Process
- Revise 504 Plan
- Short-term Behavioral Progress Reports
- Create a behavior contract

LEVEL II (Selected) Responses for Grades 6-12

Level II requires more intensive interventions than Level I, and may require administrator involvement. Formal documentation should be utilized through site referral procedures and parent/guardian communication is required to ensure students receive the support needed to understand and correct behavior.

Highly specialized and individualized alternatives to suspension for students who have been documented as unresponsive to Level I

- Target social skills instruction
- Behavior plans
- Alternatives to suspension
- Increased academic support
- School-based mentors
- Classroom management support

INTENSIVE SUPPORT STAFF AND ADMINISTRATIVE INTERVENTIONS AND RESPONSES

These interventions can involve the school administration and aim to correct behavior by stressing the seriousness of the behavior while keeping the student in school.

- Assignment of Work Projects
- Change in Schedule or Class
- Develop Behavior Plan, or BIP (SpEd only)
- Detention
- In-School Suspension
- Short-term out-of-school suspension (1-3 days)
- Loss of Privileges
- Student Conflict Resolution
- Refer to intensive small skills group: conflict resolution and social emotional learning (for drug, alcohol, or tobacco behaviors)
- Check-in, Check-out
- Reinforce behavioral expectations
- Refer to Counseling
- Mentoring
- Parent/Guardian Conference
- Referral to Substance Abuse Counseling
- Referral to Credit Recovery Program
- Reprimand by Appropriate Administrator
- Restorative Response to generate solutions
- Behavior Contract
- Restorative Practices
 - Affective Statement
 - "I " Statements
 - EARS (Empathize Ask Questions, Rephrase, Summarize)
 - Restorative conversations
 - Youth development

- Home visit
- Refer to OFEE

LEVEL III (Targeted/Intensive) for Grades 6-12

Level III requires immediate administrative involvement and written documentation in IC. Level III behaviors violate municipal codes and/or laws, are severe, or pose a threat to the physical safety of the individual student and/or others. Written formal documentation describing interventions initiated, conducted or attempted, and parent/guardian communication is required.

- Highly specialized and individualized alternatives to suspension for students who have been documented as unresponsive to Tier I and Tier II
- Alternatives to suspension (This does not apply to 48915 (c) offenses)
- Intensive academic support based on the student's level of need
- Intensive social skills counseling
- Individual behavioral student contract
- Develop intensive COST/SST goals to address the continued misconduct
- Multi-agency collaboration
- Community and service learning

ADMINISTRATIVE INTERVENTIONS, DISCIPLINARY ACTIONS AND REFERRAL RESPONSES

These interventions may involve the short-term removal of a student from the school environment because of the severity of the behavior. The duration of the short-term suspension, if issued, is to be limited as much as practicable.

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| ● Formal mentoring program | ● Restorative process (specialist-facilitated) |
| ● In-school suspension | ● Revision to BIP or other behavior plans |
| ● Parent/guardian and student conference with administrator | ● Revision to IEP (Students with Disabilities) as needed |
| ● Removal from extracurricular activities | ● Short-term out-of-school suspension (1-3 days) |
| ● Restitution | ● Intensive small skills group: <ul style="list-style-type: none"> ○ conflict resolution and social emotional learning (for suspected drug, alcohol, or tobacco use) |
| ● Restorative Practices <ul style="list-style-type: none"> ○ Harm Circle ○ Re-Entry Circle ○ Family Group Conference ○ Community Conference ○ Mediation ○ Restorative Consequence | ● Refer to Counseling Support |
| ● Provide ATOD intervention support | ● Referral to Substance Abuse Counseling |
| ● Behavior Contract | ● Referral to Credit Recovery Program |
| ● Home Visit | ● Loss of Privileges |
| ● SST | ● Refer to Aspire |
| ● COS Team Referral | ● Refer to PeaceKeepers |
| ● Refer to ASPIRE individual and/or group | ● Refer to SARB (Truancy) |
| | ● Refer to OFEE to coordinate and case manage multiple students and family Individual counseling services |
| | ● Refer to Intervention Counselor |

LEVEL IV (Most Intensive) for Grades 6-12

Level IV requires immediate intervention and administrative involvement with written documentation of interventions previously in place. Level 4 behaviors involve immediate suspension and recommendation for expulsion.

- Alternatives to suspension (This does not apply to 48915 (c) offenses)
- Conference with student, parent, and administrator to explain options for student
- Intensive social skills counseling
- Recommendation to alternative educational placement
- Outside counseling and service
- Multi-agency collaboration
- Referral to SRO

Long-term Administrative Supported, Out-of-School Exclusionary, and Referral Responses

These responses and interventions involve the removal of a student from the school environment because of the severity of the behavior. These focus on maintaining the safety of the school community and ending self-destructive and dangerous behavior

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| • Alternative Educational Placement | • Referral to Community Organizations |
| • Community Mediation | • Referral for Expulsion |
| • Suspension (4-5 days) | • Referral to Substance Abuse Counseling |
| • Manifestation Determination (Students with Disabilities) | • Refer to OFEE to coordinate multiple student and family services |
| • Recommend behavioral health support | • Recommend an evaluation from Behavior Specialist |
| • Refer to Berkeley Mental Health for service | • Check fidelity of intervention implementation and consider a modification or change |
| • Refer to onsite or outside Behavioral Health Support to coordinate multiple student and family services | • Report to Director of Student Services |

Bus Conduct Management Strategies

- Teach students appropriate bus behaviors
- Promote a positive bus environment
- Work with school site to match the interventions to the level of misbehavior on the bus
- Include behavior on the bus to the school's reward system
- Invite administrators and teachers on bus visits
- Use a bus behavior contract when necessary
- Use assigned seating on the bus for students misbehaving

DISCIPLINARY RESPONSES

In certain circumstances, disciplinary responses that remove students from the classroom or school environment may be necessary. In these cases, the goal is to make sure that students receive educational services, learn alternative behaviors, and work to repair any harm they may have caused. Responses include:

- **Detention** - Detention is a consequence, usually consisting of sitting and working quietly, for a specified amount of time outside of school hours or during break times within the day.
- **Loss of Privilege** - Removal of a school privilege for cause of action committed on school property, during lunch break of campus (BHS), or at a school sponsored event. Privileges include, but are not limited to: after school activities, school rallies, school dances, Prom, and other extracurricular activities.
- **Timeout** - A procedure in which a student is briefly removed from an environment that is reinforcing inappropriate behavior, and placed in a safe space that is not reinforcing.
- **Teacher Issued Suspension (Class Suspension)** - Per CA Ed Code 48910, a teacher may suspend a student from their class for up to 2 days, including the day of the incident. Teacher must contact the parent, set up a parent conference, and arrange to have work for the student to do in an in-school alternate setting.
- **In-School Suspension** - The exclusion of a student within the school building from his or her regular education program.
- **Out of School Suspension** - The removal of a student from school for up to but not more than 5 school days.
- **Extended Suspension (Expulsion Recommendation)** - The removal of a student from his or her regular school program by the Superintendent or designee for more not more than 20 schools days. A student may only be recommended for expulsion if Education Code criteria has been met regarding 48900 (a-t), 48915 (a)(1)(A-E), or 48915 (C). For such referrals, the student behavior has seriously endangered the health, welfare or safety of other students or school personnel; or the student's continued presence in the school constitutes a significant safety risk. An expulsion may include the current and following semester or the totality of one school year. Specific legal provisions must be followed for students with 504 plans and IEPs.
- **Alternative Educational Placement** - Applicable students will be placed in alternative educational settings while serving an expulsion for behavior that has seriously endangered the health, welfare, or safety of other students or school staff. Students serving an expulsion are not permitted to receive instruction in the comprehensive campus or program within the school district where the behavior occurred. Students serving a full expulsion are referred to educational programs and schools operated by the Alameda County Office of Education for the duration of the expulsion term.
- **Interim Alternative Educational Setting (only legal in very specific circumstances for a student with an IEP)** -This setting can be inside or outside a school that enables students with IEPs to continue to progress in the general curriculum and to continue to receive special education related services and accommodations needed to meet the goals of their IEPs.

California Education Codes for Student Discipline

Education Code Section 48900.

48900. A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an 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.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit the use or possession by a pupil of the pupil's own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) (1) 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.
- (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph is inoperative on July 1, 2020.
- (3) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended for any of the acts specified in paragraph (1), and those acts shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.
- (4) Except as provided in Section 48910, commencing July 1, 2020, a pupil enrolled in any of grades 6 to 8, inclusive, shall not be suspended for any of the acts specified in paragraph (1). This paragraph is inoperative on July 1, 2025.
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, that 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 purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, 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 those pupils’ person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on the pupil’s physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with the pupil’s academic performance.

(D) Causing a reasonable pupil to experience substantial interference with the pupil’s ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) “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, any of the following:

(i) A message, text, sound, video, or image.

(ii) A post on a social network internet website, including, but not limited to:

(I) Posting to or creating a burn page. “Burn page” means an internet website created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). “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.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). “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) (I) An act of cyber sexual bullying.

(II) 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 subparagraphs (A) to (D), inclusive, of paragraph (1). A photograph or other visual recording, as described in this subclause, 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.

(III) 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.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the internet or is currently posted on the internet.

(3) “Reasonable pupil” means a pupil, including, but not limited to, a pupil with exceptional needs, who exercises average care, skill, and judgment in conduct for a person of that age, or for a person of that age with the pupil’s exceptional needs.

(s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section unless the act is related to a school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to a school activity or school attendance that occur 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 to or coming from, a school-sponsored activity.

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, 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 subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal is encouraged to provide alternatives to suspension or expulsion, using a research-based framework with strategies that improve behavioral and academic outcomes, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) (1) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

(2) It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.

Education Code Section 48900.1

48900.1. (a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a school day in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

The adopted policy shall include the procedures that the district will follow to accomplish the following:

(1) Ensure that parents or guardians who attend school for the purposes of this section meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the school site.

(2) Contact parents or guardians who do not respond to the request to attend school pursuant to this section.

(c) If a teacher imposes the procedure pursuant to subdivision (a), the principal shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. This section shall apply only to a parent or guardian who is actually living with the pupil.

(d) A parent or guardian who has received a written notice pursuant to subdivision (c) shall attend class as specified in the written notice. The notice may specify that the attendance of the parent or guardian be on the day the pupil is scheduled to return to class, or within a reasonable period of time thereafter, as established by the policy of the board adopted pursuant to subdivision (a).

Education Code Section 48900.2

48900.2. In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

Education Code Section 48900.3

48900.3. In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

Education Code Section 48900.4

48900.4. In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has 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 classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

Education Code Section 48900.5

48900.5. (a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069.7. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and the pupil's parents.
- (4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- (5) Enrollment in a program for teaching prosocial behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the school day on campus.
- (8) After school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.

(9) Any of the alternatives described in Section 48900.6.

Education Code Section 48900.6

48900.6. As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's non-school hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

Education Code Section 48900.7

48900.7. (a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic 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 safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

Education Code Section 48900.8

48900.8. For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the department, each school district shall specifically identify, by offense committed, in all appropriate official records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in Section 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915.

Education Code Section 48900.9

48900.9. (a) The superintendent of a school district, the principal of a school, or the principal's designee may refer a victim of, witness to, or other pupil affected by, an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate.

(b) A pupil who has engaged in an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, may also be referred to the school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program, pursuant to Section 48900.5.

Education Code Section 48901

48901. (a) No school shall permit the smoking or use of a tobacco product by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

(c) For purposes of this section, “smoking” has the same meaning as in subdivision (c) of Section 22950.5 of the Business and Professions Code.

(d) For purposes of this section, “tobacco product” means a product or device as defined in subdivision (d) of Section 22950.5 of the Business and Professions Code.

Education Code Section 48901.1

48901.1. Notwithstanding Section 47610 or any other law, commencing July 1, 2020, the following provisions apply to charter schools:

(a) A pupil enrolled in a charter school in kindergarten or any of grades 1 to 5, inclusive, shall not be suspended on the basis of having 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, and those acts shall not constitute grounds for a pupil enrolled in a charter school in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion.

(b) A pupil enrolled in a charter school in any of grades 6 to 8, inclusive, shall not be suspended on the basis of having 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. This subdivision is inoperative on July 1, 2025.

Education Code Section 48901.5

48901.5. (a) The governing board of each school district, or its designee, may regulate the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including, but not limited to, paging and signaling equipment, by pupils of the school district while the pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees.

(b) No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of the pupil and use of which is limited to purposes related to the health of the pupil.

Education Code Section 48901.7

48901.7. (a) The governing body of a school district, a county office of education, or a charter school may adopt a policy to limit or prohibit the use by its pupils of smartphones while the pupils are at a school site or while the pupils are under the supervision and control of an employee or employees of that school district, county office of education, or charter school.

(b) Notwithstanding subdivision (a), a pupil shall not be prohibited from possessing or using a smartphone under any of the following circumstances:

(1) In the case of an emergency, or in response to a perceived threat of danger.

(2) When a teacher or administrator of the school district, county office of education, or charter school grants permission to a pupil to possess or use a smartphone, subject to any reasonable limitation imposed by that teacher or administrator.

(3) When a licensed physician and surgeon determines that the possession or use of a smartphone is necessary for the health or well-being of the pupil.

(4) When the possession or use of a smartphone is required in a pupil’s individualized education program.

Education Code Section 48902

48902. (a) The principal of a school or the principal’s designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one school day after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or non-pupil on a school site to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

(d) A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of making any report authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

(e) The principal of a school or the principal's designee reporting a criminal act committed by a school-age individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(k)(6) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

Education Code Section 48903

48903. (a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, 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.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

Education Code Section 48904

48904. (a) (1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000), adjusted annually for inflation. The parent or guardian shall be liable also for the amount of any reward not exceeding ten thousand dollars (\$10,000), adjusted annually for inflation, paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the school district or private school authorized to make the demand.

(2) The Superintendent annually shall compute an adjustment of the liability limits prescribed by this subdivision to reflect the percentage change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustment shall be rounded to the nearest one hundred dollars (\$100).

(b) (1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the school district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

(2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

Education Code Section 48904.3

48904.3. (a) Upon receiving notice that a school district has withheld the grades, diploma, or transcripts of any pupil pursuant to Section 48904, any school district to which the pupil has transferred shall likewise withhold the grades, diploma, or transcripts of the pupil as authorized by that section, until the time that it receives notice, from the district that initiated the decision to withhold, that the decision has been rescinded under the terms of that section.

(b) Any school district that has decided to withhold a pupil's grades, diploma, or transcripts pursuant to Section 48904 shall, upon receiving notice that the pupil has transferred to any school district in this state, notify the parent or guardian of the pupil in writing that the decision to withhold will be enforced as specified in subdivision (a).

(c) For purposes of this section and Section 48904, "school district" is defined to include any county superintendent of schools.

(d) This section and Section 48904 shall also apply to the state special schools, as described in subdivision (a) of Section 48927.

Education Code Section 48905

48905. An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or the employee's property is (1) located on property owned by the district, (2) being transported to or from an activity sponsored by the district or a school within the district, (3) present at an activity sponsored by such district or school, or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48904.

Education Code Section 48906

48906. When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165.6 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

Education Code Section 48907

48907. (a) Pupils of the public schools, including charter schools, shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, the wearing of buttons, badges, and other insignia, and the right of expression in official publications, whether or not the publications or other means of

expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material that so incites pupils as to create a clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

(b) The governing board or body of each school district or charter school and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

(c) Pupil editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism adviser or advisers of pupil publications within each school to supervise the production of the pupil staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

(d) There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to a limitation of pupil expression under this section.

(e) "Official school publications" refers to material produced by pupils in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

(f) This section does not prohibit or prevent the governing board or body of a school district or charter school from adopting otherwise valid rules and regulations relating to oral communication by pupils upon the premises of each school.

(g) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

Education Code Section 48908

48908. All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

Education Code Section 48909

48909. When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

Education Code Section 48910

48910. (a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator 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.

(b) 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 subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

Education Code Section 48911

48911. (a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. 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 as required under Section 48900.5, 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.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before 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 school days, 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.

(d) 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. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

(f) (1) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

(2) No penalties shall be imposed on a pupil for failure of the pupil's parent 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 the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools or other person designated by the district superintendent of schools in writing may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, 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 or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) (1) For purposes of this section, a "principal's designee" is one or more administrators at the school site specifically designated by the principal, in writing, to assist with disciplinary procedures.

(2) In the event that there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as a “principal’s designee,” to assist with disciplinary procedures. The principal may designate only one person at a time as the principal’s primary designee for the school year.

(3) An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for purposes of this article when both the principal and the principal’s primary designee are absent from the school site. The name of the person, and the names of any person or persons designated as “principal’s designee,” shall be on file in the principal’s office.

(i) This section is not an exception to, nor does it place any limitation on, Section 48903.

Education Code Section 48911.1

48911.1. (a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal’s designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the school site for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil’s parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil’s parent or guardian.

(e) This section does not place any limitation on a school district’s ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

Education Code Section 48911.2

48911.2. (a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school’s enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(2) Implement an alternative to the school’s off-campus suspension program, which involves a progressive discipline approach that occurs during the school day on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school’s off-campus suspensions and the plan or activities used to comply with subdivision (a).

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

Education Code Section 48911.5

48911.5. The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.

Education Code Section 48912

48912. (a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of school days within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district 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 Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing 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 governing 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 governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing 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.

Education Code Section 48912.5

48912.5. The governing board of a school district may suspend a pupil enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in Section 48900 occurred. The suspension shall meet the requirements of Section 48915.

Education Code Section 48913

48913. The teacher of any class from which a pupil is suspended may require the suspended pupil to complete any assignments and tests missed during the suspension.

Education Code Section 48913.5

48913.5. (a) Upon the request of a parent, a legal guardian or other person holding the right to make educational decisions for the pupil, or the affected pupil, a teacher shall provide to a pupil in any of grades 1 to 12, inclusive, who has been suspended from school for two or more schooldays the homework that the pupil would otherwise have been assigned.

(b) If a homework assignment that is requested pursuant to subdivision (a) and turned into the teacher by the pupil either upon the pupil's return to school from suspension or within the timeframe originally prescribed by the teacher, whichever is later, is not graded before the end of the academic term, that assignment shall not be included in the calculation of the pupil's overall grade in the class.

Education Code Section 48914

48914. Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

Education Code Section 48915

48915. (a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) 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.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

(2) Brandishing a knife at another person.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

(1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

(3) Is not housed at the school site attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

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

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

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, “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 3¹/₂ inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(h) As used in this section, the term “explosive” means “destructive device” as described in Section 921 of Title 18 of the United States Code.

Education Code Section 48915.01

48915.01. If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

Education Code Section 48915.1

48915.1. (a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, 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 the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

Education Code Section 48915.2

48915.2. (a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

Education Code Section 48915.5

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend

expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

Education Code Section 48916

48916. (a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing 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 to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(b) The governing 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 education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding 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 school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for 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.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

Education Code Section 48916.1

48916.1. (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e) (1) Each school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

Education Code Section 48916.5

48916.5. The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

Education Code Section 48917

48917. (a) The governing 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. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

- (d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.
- (e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.
- (f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

Education Code Section 48918

48918. The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

- (a) (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 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board of the school district.
- (2) Within 10 school days after the conclusion of the hearing, the governing board of the school district shall decide whether to expel the pupil, 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 governing board of the school district does not meet on a weekly basis, the governing board of the school district shall decide whether to expel the pupil 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 of schools, unless the pupil requests in writing that the decision be postponed.
- (3) If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools 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. If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as school days in meeting the time requirements. The days not counted as school days in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48925, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days before the first day of school for the school year. 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.
- (b) 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 all of the following:
- (1) The date and place of the hearing.
- (2) A statement of the specific facts and charges upon which the proposed expulsion is based.
- (3) A copy of the disciplinary rules of the school district that relate to the alleged violation.
- (4) A notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1.
- (5) Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or to be represented by legal counsel or by 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. 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 before 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 testifies, 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. This section does not require a pupil or the pupil's parent or guardian to be represented by legal counsel or by a non-attorney adviser at the hearing.

(A) For purposes of this section, "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.

(B) For purposes of this section, "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 pupil or pupil's parent or guardian to provide assistance at the hearing.

(c) (1) Notwithstanding Section 35145, the governing board of the school district 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 governing board of the school district may meet in closed session for the purpose of deliberating and determining whether the pupil should be expelled.

(2) If the governing board of the school district or the hearing officer or administrative panel appointed under subdivision (d) 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 of the pupil also shall be allowed to attend the closed deliberations.

(3) 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.

(d) Instead of conducting an expulsion hearing itself, the governing board of the school district may contract with the county hearing officer, or with the Office of Administrative Hearings pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board of the school district may also appoint an impartial administrative panel of three or more certificated persons, none of whom is a member of the governing board of the school district 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 section.

(e) Within three school days after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board of the school district. 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 of schools 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.

(f) (1) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board of the school district. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board of the school district 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 governing board of the school district may order.

(2) The decision of the governing board of the school district 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 section, no evidence to expel shall be based solely upon hearsay evidence. The governing board of the school district or the hearing officer or administrative panel may, upon a

finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical 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 governing board of the school district or the hearing officer or administrative panel. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

(g) 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.

(h) (1) 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 governing board of the school district to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(2) In hearings that include an allegation 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, 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 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) (1) Before the hearing has commenced, the governing board of the school district may issue subpoenas at the request of either the superintendent of schools or the superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the governing board of the school district or the hearing officer or administrative panel may, upon request of either the county superintendent of schools or the superintendent's designee or the pupil, issue subpoenas. All subpoenas shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Section 11455.20 of the Government Code.

(2) Any objection raised by the superintendent of schools or the superintendent's designee or the pupil to the issuance of subpoenas may be considered by the governing board of the school district in closed session, or in open session, if so requested by the pupil before the meeting. Any decision by the governing board of the school district in response to an objection to the issuance of subpoenas shall be final and binding.

(3) If the governing board of the school district, hearing officer, or administrative panel determines, in accordance with subdivision (f), that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as provided for in subdivision (f).

(4) Service of process shall be extended to all parts of the state and shall be served in accordance with Section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision of the state, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board of the school district or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board of the school district 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 by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by all of the following:

(1) Notice of the right to appeal the expulsion to the county board of education.

(2) Notice of the education alternative placement to be provided to the pupil during the time of expulsion.

(3) Notice of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that school district of the pupil's expulsion.

(k) (1) The governing board of the school district shall maintain a record of each expulsion, including the cause for the expulsion. Records of expulsions shall be non-privileged, disclosable public records.

(2) 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.

Education Code Section 48918.1

48918.1. (a) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

Education Code Section 48918.5

48918.5. In expulsion hearings involving allegations brought pursuant to subdivision (n) of Section 48900, the governing board of each school district shall establish rules and regulations governing procedures. The procedures shall include, but are not limited to, all of the following:

(a) At the time that the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to: (1) receive five days' notice of the complaining witness's scheduled testimony at the hearing, (2) have up to two adult support persons of his or her choosing, present in the hearing at the time he or she testifies; and (3) to have the hearing closed during the time they testify pursuant to subdivision (c) of Section 48918.

(b) An expulsion hearing may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a pupil who is the complaining witness where the allegations arise under subdivision (n) of Section 48900.

(c) The district shall provide a nonthreatening environment for a complaining witness in order to better enable them to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. Each school district shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room of those present in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.

(d) Whenever any allegation is made of conduct violative of subdivision (n) of Section 48900, complaining witnesses and accused pupils are to be advised immediately to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

Education Code Section 48918.6

48918.6. In addition to any other immunity that may exist, any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to this article is expressly deemed to be a communication protected by subdivision (b) of Section 47 of the Civil Code.

Education Code Section 48919

48919. If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education, or in a class 1 or class 2 county a hearing officer or impartial administrative panel, shall hold the hearing within 20 school days following the filing of a formal request under this section. If the county board of education hears the appeal without a hearing conducted pursuant to Section 48919.5, then the board shall render a decision within three schooldays of the hearing conducted pursuant to Section 48920, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. If the county board of education in a class 1 or class 2 county elects to use the procedures in Section 48919.5, then the board shall adopt rules and regulations establishing procedures for expulsion appeals conducted under Section 48919.5. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a written request for a copy of the written transcripts and supporting documents from the school district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within 10 schooldays following the pupil's written request. Upon receipt of the records, the pupil shall immediately file suitable copies of these records with the county board of education.

Education Code Section 48925

48925. As used in this article:

- (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 Section 46300.
- (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 governing 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 as provided in Section 48910. Removal from a particular class shall not occur more than once every five schooldays.

(e) "Pupil" includes a pupil's parent or guardian or legal counsel.

Board Policies and Administrative Regulations

BP 5144.1

Suspension And Expulsion/Due Process

Students

The Governing Board has established policies, standards and general expectations for behavior in order to promote learning and protect the safety and well-being of all students. When these policies, standards and expectations are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

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

District staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, and in accordance with the district's nondiscrimination policies.

Suspended or expelled students shall be excluded from all school-related extracurricular activities during the period of suspension or expulsion.

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct.

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to him/herself or others.

Student Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and law.

On-Campus Suspension Program

The Superintendent or designee may establish a supervised in-house suspension program which meets the requirements of law for suspended students who pose no imminent danger or threat at school and for whom an expulsion action has not been initiated.

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is removed from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in that class. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee.

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

Parental attendance may be requested on the day the student returns to class or within one week thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school. The Board recognizes that parental compliance with this policy may be delayed, modified or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

Decision Not to Enforce Expulsion Order

On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

Policy BERKELEY UNIFIED SCHOOL DISTRICT
adopted: December 7, 2005 Berkeley, California
revised: February 13, 2013

AR 5144.1

Suspension Due Process

This AR provides the implementing regulations for BP 5144.1. These regulations govern suspensions, whereas AR 5144.3 governs expulsions.

Definitions

“Suspension from school” 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 where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal 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 principal or designee as provided in Education Code [48910](#). Removal from a particular class shall not occur more than once every five school days. “Day” means a calendar day unless otherwise specifically provided. “School day” means a day upon which the schools of the district are in session or weekdays during the summer recess. “Student” includes a student's parent/guardian or legal counsel. “Principal's designee” means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. “School property,” for the purposes described in Education Code [48900](#), includes, but is not limited to, electronic files and databases.

Notice of Regulations

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

Grounds for Suspension

A student may be subject to suspension when it is determined that he/she:

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. A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code [31](#), may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code [48900\(a\)](#) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, 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 principal 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 [11053-11058](#), 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 [11053-11058](#), alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid, substance or material and represented same as controlled substance, alcohol 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. This restriction shall not prohibit a student from using or possessing his/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, as defined in Health and Safety Code [11014.5](#).
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
12. Knowingly received stolen school property or private property.
13. Possessed an imitation firearm, i.e., a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.
14. Committed or attempted to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#) or [289](#), or committed a sexual battery as defined in Penal Code [243.4](#).
15. Harassed, threatened, or intimidated a 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.
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
17. Made terrorist threats against school officials and/or school property.

A student in grades 4 through 12 is also subject to suspension when it is determined that he/she:

18. Committed sexual harassment as defined in Education Code [212.5](#)
19. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code [233](#)
20. Intentionally engaged in harassment, threats or intimidation against district 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
21. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel.

Bullying means one or more acts by a student or group of students that constitutes sexual harassment pursuant to Education Code [48900.2](#), as defined in item #18 above; hate violence pursuant to Education Code [48900.3](#), as defined in item #19 above; or harassment, threats, or intimidation pursuant to Education Code [48900.4](#), as defined in item #20 above.

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager.

A student may be suspended for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including but not limited to the following circumstances:

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

The Superintendent or principal may use his/her discretion to provide alternatives to suspension for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program.

Alternatives to suspension will be used with students who are truant, tardy, or otherwise absent from assigned school activities.

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension" above.

A teacher also may refer a student to the principal or designee for consideration of suspension from school.

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

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

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

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

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

Pursuant to Governing Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law.

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. Describe the legal protections afforded to the parent/guardian as an employee under Labor Code [230.7](#)
3. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
4. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code [48900.1](#)

Suspension by Superintendent, Principal or Principal's Designee

The Superintendent, principal or principal's designee may suspend a student from a school for not more than five consecutive school days unless the suspension is extended pending expulsion.

The Superintendent or designee shall immediately suspend any student found at school or at a school activity to be:

1. Possessing, as verified by a district employee, or selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife, as defined in Education Code [48915\(g\)](#), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension" above
5. Possession of an explosive as defined in 18 USC [921](#)

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines the student violated items #1-5 listed in "Grounds for Suspension" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion.

The Superintendent or designee may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which a student may be suspended in any school year.

Suspensions shall be initiated according to the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent with the student and, whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety or health of students or school personnel.

If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference shall be held as soon as the student is physically able to return to school.

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension.

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

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved and any other pertinent matter.

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

Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension" above and within the limits specified in "Suspension by Superintendent, Principal or Principal's Designee" above.

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension" occurred. The suspension shall meet the requirements of Education Code [48915](#)

When the Board is considering a suspension, disciplinary action or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code [49073-49079](#).

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session.

On-Campus Suspension Program

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school may be assigned to a separate, supervised suspension classroom for the entire period of suspension. The following conditions shall apply:

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher 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 a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing.

Notifications to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code [245](#).

The principal 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 possession of weapons or firearms in violation of Penal Code [626.9](#) and [626.10](#).

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

Regulation BERKELEY UNIFIED SCHOOL DISTRICT

approved: May 21, 2003 Berkeley, California

revised: October 28, 2009

revised: January 11, 2017

Board Policy 5144.3

Expulsion

Students

EXPULSION

The Governing Board is dedicated to implementing graduated discipline practices and policies that aim to keep all our students in class, receiving instruction and support. Expulsion from school is an extreme and severe disruption of the educational process, and shall be reserved for behavior that requires expulsion under the law or that poses a serious future threat to the safety of students or staff.

Definitions

"Accused student" means the student against whom expulsion proceedings are initiated or contemplated.

"Complainant" means the student who is the alleged victim of another student's actions, regardless of whether a formal complaint has been filed.

Expellable offenses

The Education Code provides for different treatment of different kinds of alleged offenses.

If a principal or the Superintendent determines that a student has committed any of the following acts at school or at a school activity off school grounds, the Education Code requires that he or she immediately suspend the student and recommend expulsion of the student:

- (1) Possessing, selling, or otherwise furnishing a firearm.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

[Ed Code sec. 48915(c).]

If a principal or the Superintendent determines that a student has committed any of the following acts at school or at a school activity off school grounds, the Education Code requires that he or she recommend the expulsion of the student unless he or she determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- (1) Causing serious physical injury to another person, except in self-defense.
- (2) Possession of a knife or other dangerous object of no reasonable use to the pupil.
- (3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:
 - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(4) Robbery or extortion.

(5) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

[Ed Code sec. 48915(a).]

With respect to the above-listed offenses that fall under section 48915(a) of the Education Code, the Board believes that, except in extraordinary circumstances, alternative means of discipline and correction should be employed and expulsion should not be recommended.

The law allows for expulsions for other offenses. However, except for the offenses listed in the two provisions referenced above (sections 48915(c) and 48915(a)), or in extraordinary circumstances, neither a principal nor the Superintendent shall recommend the expulsion of a student.

[Ed Code sec. 48900.]

In the event that a principal or the Superintendent recommends the expulsion of a student, the Director of Student Services shall commence the expulsion process, which may, depending on the circumstances, result in an expulsion hearing, the termination of the expulsion proceedings, or an alternative resolution, such as restorative justice or a settlement with terms agreed upon by the District and the accused student.

Suspended enforcement of expulsion orders

Under the law, the Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for a period of up to, but not more than, one calendar year.

[Ed Code section 48917(a); 80 Ops. Cal. Atty. Gen. 85 (1997).]

The Board shall suspend the enforcement of any expulsion order unless it is uniquely inappropriate to do so in the particular case.

Any suspended enforcement of an expulsion order shall be accompanied by a rehabilitation plan carefully tailored to the unique needs of the accused student, designed to further the student's academic progress, facilitate the student's understanding of the District's behavioral expectations and the harm caused by the student's behavior, repair the harm caused, ensure the safety of other students and staff, and prevent a reoccurrence of the behavior.

Where the Board has suspended the enforcement of an expulsion order, the Board has the discretion to revoke the suspended enforcement of the expulsion order. The Board shall only exercise its discretion to reinstate an expulsion order when it is necessary to protect the safety of students or staff.

[Ed Code sec. 48917(d).]

Duration of expulsions

The Education Code provides limits for the duration of an expulsion. The Board shall impose expulsion terms that are shorter than the maximum duration whenever possible and appropriate given the unique circumstances of each case.

[Ed Code sec. 48916(a).]

Readmission and re-entry

The expulsion order shall remain in effect until the Board orders the readmission of the student. The Board shall set a date, no later than the last day of the expulsion order, when the student shall be reviewed for readmission.

Where the Board has issued an expulsion order, the Board shall indicate in its order that successful compliance with the rehabilitation plan may result in early readmission.

When the expulsion time period is expired, the Board shall readmit the expelled student unless the Board makes a finding that the student poses an imminent danger to campus safety or to other students or employees of the District.

[Ed Code sec. 48916(c).]

The Superintendent or designee shall develop a re-entry plan to be implemented upon the accused student's re-entry, either back into the District after an expulsion, or back into the student's previous school if the student was transferred as part of an order suspending the enforcement of an expulsion. The re-entry plan shall be carefully tailored to the unique needs of the accused student, designed to further the student's academic progress, facilitate the student's successful re-entry into the school environment, and ensure the safety of the complainant(s) (if any) and/or the school community.

Legal counsel for students facing expulsion

From the beginning of the expulsion process, the Superintendent or designee shall make every effort to provide information about free legal services to students facing expulsion and shall encourage them to avail themselves of such representation if available.

Extension of suspensions pending expulsion

Outside of the expulsion process, the maximum allowable duration of a suspension is five consecutive school days. However, when the expulsion process has commenced, the Superintendent or designee may extend the suspension pending the resolution of the expulsion process if certain, specific conditions are met. The extended suspension of a student pending expulsion proceedings is a significant interruption of the student's education that occurs prior to any finding of violation at an adjudicated hearing, and should only be sought when required by law.

[Ed Code sec. 48911(a), (g).]

By law, the suspension of a student pending an expulsion hearing may not be extended unless the Superintendent or designee makes an express determination, following a meeting in which the student and the student's parent/guardian are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.

Such a determination must be made on the basis of an individualized, case specific analysis, in addition to the nature or seriousness of the alleged incident.

[Ed. Code 48911(g).]

In making this determination, the Superintendent or designee shall, when possible, consult with the complainant(s) (if any) and/or the complainant(s)' parent/guardian. The Superintendent or designee shall also explore whether an agreement by the accused student to stay away from the complainant(s) (if any) would alleviate the danger to persons or property or threat of disruption to the instructional process that the accused student's presence at his or her current school might pose. Such a stay-away agreement might result in the accused student having to temporarily change classes, temporarily withdraw from certain activities or sports, and/or temporarily withdraw from attending prom or other social activities. The terms of any such agreement shall be shared with the complainant(s) (if any) to the extent possible, so long as doing so does not impinge on the confidentiality or privacy of the accused student. In addition, the Superintendent or designee shall create a safety plan for the complainant(s) (if any).

If the Superintendent or designee determines that the presence of the accused student at his or her school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process, the Superintendent or designee may then choose to extend the suspension pending the resolution of the expulsion proceedings. If that determination is made, it must be communicated in a timely manner to the student, in a written document that details the reasons, specific to the individual student, for the determination.

If a suspension is extended beyond five days, the student may appeal this decision to the Superintendent at any time during the extended suspension. If an appeal is requested, the Superintendent shall meet with the accused student and/or his or her parent/guardian in a timely manner. Following this meeting, the Superintendent has the discretion to reconsider the extension of the suspension.

If the suspension is not extended pending the resolution of the expulsion process, the accused student is subject to the District's general discipline policies throughout the duration of the expulsion process. To the extent possible without violating the accused student's rights to confidentiality and privacy, the complainant(s) (if any) shall be informed of the accused student's status and whether or not the accused student is on campus.

Instruction during extended suspension

The District shall ensure that any accused student whose suspension is extended pending an expulsion hearing is provided instruction during the period of extended suspension.

Use of restorative justice or other alternative resolutions in expulsion cases

The Governing Board encourages the use of restorative justice in lieu of an expulsion hearing in cases that are referred for expulsion, including cases that require mandatory referral for expulsion under Education Code section 48915(c). Restorative justice is, in many cases, more likely to repair harm to complainant(s) and likely to be less traumatic to complainant(s) than an adversarial expulsion hearing. It also allows for the student offender to play an active role in the reparation of the harm, learn from the consequences of behavioral choices, and continue to receive an education while avoiding an adversarial expulsion hearing. A complainant shall never be required to participate in a restorative justice process, nor be pressured into doing so.

In light of the Board's preference for alternative methods of resolution in lieu of expulsion hearings, the Superintendent or designee shall pursue, whenever possible and where appropriate, alternative processes on a case-by-case basis, including cases that require a mandatory referral for expulsion under Education Code section 48915(c). Such an alternative resolution could be achieved, for example, through an agreement with the accused student to waive the expulsion hearing timelines, proceed with a restorative justice (or alternative) process, and stipulate, if appropriate, to a suspended enforcement of the expulsion with consideration of early readmission and possible record expungement upon successful completion of that process. If the process is not successful, the District could then proceed with an expulsion hearing or other means of resolving the case that is consistent with the Education Code.

Investigation of expulsion cases

The Superintendent or designee shall pursue a balanced, sensitive, trauma informed approach to all investigations. District employees conducting investigations and/or the District's legal counsel shall speak with all relevant witnesses, including witnesses identified by the accused student, the complainant(s) (if any), and teachers. At all times the investigation shall be conducted in a manner that protects the confidentiality of all students involved to the extent legally possible.

If any student is questioned for the purpose of investigating a school discipline matter related to an expellable offense, that student's parent/guardian shall be notified that the questioning has occurred and the reason for the questioning. This notification shall occur as soon as possible but in no case later than the close of business on the day the questioning occurred, and all available methods of communication shall be utilized. If direct contact with the parent/guardian is not made on the day that the questioning occurred, all efforts shall be made to make direct contact with the parent/guardian as soon as practicable.

No student shall be questioned for the purpose of investigating a school discipline matter by the District's legal counsel without first notifying the parent/guardian and offering them the opportunity to be present during questioning. If the parent/guardian cannot be present during questioning by the District's legal counsel, the student shall have the opportunity to have an adult of his or her choosing present during questioning.

Any such investigation shall be separate and independent from any law enforcement investigation.

Due process

Accused students facing expulsion have the right to fully and meaningfully confront the evidence against them and present their defense at an expulsion hearing. To that end, the District shall: 1) allow and compensate teachers to testify for students facing expulsions at expulsion hearings, if teachers choose to do so; 2) allow for other witnesses to be called for an expulsion hearing at the accused student's request, under subpoena where necessary and allowed by law; 3) provide the accused student with all documents and evidence collected in the course of the case investigation (excluding attorney work product), including, but not limited to, any exculpatory evidence, and do so in a timely manner; 4) provide the accused student with a list of any and all witnesses the District intends to have testify at the hearing.

[Ed Code sec. 48918.]

The District shall also allow and compensate teachers to attend the hearing in support of the complainant(s) (if any), to the extent possible and without violating the confidentiality of the complainant(s) or the accused student.

Complainants' Rights in the Expulsion Process

Complainants generally have the right to timely information about expulsion proceedings that pertain to their safety and access to academic and extracurricular offerings, as well as information that would reasonably influence their decisions regarding further contact with accused students. So long as the provision of this information does not violate the District's obligations to the confidentiality and privacy of the accused student, this information includes an explanation of a) the complainant's rights (including his or her rights to participate or not participate in the process), b) how to access appropriate counseling services and academic accommodations, c) the timeline of any discipline process, d) the resolution of any discipline process, and e) how to access any available resources, of which the Superintendent or designee is aware, for confidential support and guidance throughout the process.

[Family Educational Rights and Privacy Act (FERPA) Regulations, 34 CFR sec. 99.30, 99.31.]

In addition, the Title IX Coordinator shall serve as the District contact for support for complainants in sexual harassment, sexual battery, or sexual assault cases and shall assist complainants in those cases with accessing available services. Complainants alleging violations of Education Code section 48900(n) are also entitled to all rights, relevant to the charge, specified in Education Code sections 48918(b)(5), 48918(c)(3), 48918(h)(2), and 48918.5.

Prior to an expulsion hearing in which a complainant is also a student, the complainant shall be given five school days' notice before being called to testify, and shall be entitled to have up to two adult support persons of his or her choosing present during his or her testimony. Three adult support persons may be allowed at the discretion of the Superintendent or designee, so long as at least one is a parent/guardian. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.

[Ed Code sec. 48918(b)(5).]

In all cases in which a complainant is called to testify in an expulsion hearing involving an alleged violation of Ed Code sec. 48900(n), the District shall provide a nonthreatening environment in order to enable the complainant to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints.

[Ed Code sec. 48918.5(c).]

Regardless of whether he or she has filed a formal complaint, a complainant is a witness in any expulsion process, and is not a party to the expulsion process. The accused student and the District are the only formal parties in the expulsion process. For this reason, the role of the complainant(s) (if any) is limited, and a complainant is not privy to the same information as the accused student. However, the Superintendent or designee should consult with the complainant(s) (if any) and/or his or her parent/guardian throughout the expulsion process in an effort to ascertain the complainant's wishes about how to proceed and to provide information, when possible and without impinging on the accused student's confidentiality or privacy. Although a complainant may not dictate the course of the District's actions, the Superintendent or designee shall consider the complainant's wishes when determining how to proceed.

[Family Educational Rights and Privacy Act (FERPA) Regulations, 34 CFR sec. 99.30, 99.31.]

The administrative panel's role in the expulsion process

Any administrative panel appointed to hear an expulsion case shall be impartial and contain three or more certificated persons, none of whom is a member of the Board or employed on the staff of the school in which the accused student is enrolled or at which the event leading to the expulsion recommendation took place. In the event that such an impartial panel cannot be appointed, the Board may hear the expulsion case in the first instance or it may contract with the county hearing officer or the Office of Administrative Hearings.

[Ed Code sec. 48918(d).]

The administrative panel shall determine if there is substantial evidence that the accused student engaged in each of the alleged offenses. The panel shall not make a determination as to guilt based on hearsay evidence alone. In all cases except those alleging a violation of Education Code section 48915(c), the panel also must, before recommending expulsion, make a finding that either alternative means of correction are not feasible or have repeatedly failed to bring about proper conduct, or that due to the nature of the act, the presence of the accused student causes a continuing danger to the physical safety of the accused student or others.

[Ed Code sec. 48918(f)(2), 48915(b), (e).]

If the panel determines that there is not substantial evidence or does not recommend expulsion, the expulsion process ends and the case does not proceed to the Board. The accused student shall immediately be readmitted into the instructional program from which the expulsion referral was made, unless there is a request by the accused student or his/her parent/guardian for another school placement.

[Ed Code sec. 48918(e).]

If the panel finds substantial evidence exists for an expellable charged offense, the panel may recommend expulsion. The panel may also recommend that the enforcement of the expulsion order be suspended and, if so, shall provide factual information in its findings, adduced at the hearing, supporting its recommendation to the Board to suspend the enforcement of the expulsion order. If the panel finds that the accused student committed any of the acts specified in Education Code sec. 48915(c), but does not recommend expulsion, the accused student 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 Education Code section 48432.5, the District's continuation school.

[Ed Code sec. 48918(e).]

An administrative panel's decision not to recommend expulsion shall be final.

The discretion to recommend a suspended enforcement of the expulsion order is available in every expulsion case.

The administrative panel shall submit a detailed, written factual finding to the Board explaining its reasoning for its decision. A copy of the panel's findings shall be provided to the accused student.

The Board's role in the expulsion process

The accused student and/or the accused student's representative shall have the opportunity to address the Board in closed session prior to the Board's decision.

If the Board finds substantial evidence for an offense listed in Education Code sec. 48915(c), the Board shall expel the accused student but may suspend enforcement of the expulsion order.

[Ed Code sec. 48918(f)(1), (h)(1).]

If the Board finds substantial evidence that the accused student committed an expellable offense other than an offense listed in Education Code section 48915(c), the Board may vote to expel the accused student, suspend the enforcement of the expulsion order, or decline to expel the accused student.

In all cases in which the Board decides to expel a student except those alleging a violation of Education Code section 48915(c), the Board must make a finding that either alternative means of correction are not feasible or have repeatedly failed to bring about proper conduct, or that 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.

[Ed Code sec. 48915(b), (e).]

The Board's decision to expel a student shall be based only upon a review of the findings of the administrative panel, or upon the results of any supplementary hearing the Board may order. Although the Board may consider comments made by an accused student or his/her representative during closed session in deciding not to expel an accused student, no student may be expelled on the basis of comments made by that student or his/her representative in closed session.

[Ed Code sec. 48918(f)(1).]

Where the Board finds substantial evidence but declines to expel the accused student, it may direct the Superintendent or designee to create a plan that includes opportunities for the accused student to repair any harm caused and take responsibility for his or her actions.

Students with Individual Education Plans (IEPs) and Section 504 plans

Nothing in this Policy shall be construed to limit in any way the rights of students with Individual Education Plans (IEPs) and Section 504 Plans that are provided in the Education Code and in federal law.

Where an accused student or complainant has an IEP or Section 504 Plan, the District shall ensure that he or she is provided sufficient support during the disciplinary process; that he or she has equal access to restorative justice and/or alternative resolution options; and that any rehabilitation, readmission, safety, and/or re-entry plans are carefully tailored to account for his or her disabilities and unique needs.

[20 U.S.C.A. sec. 1415; 29 U.S.C. 794 (Section 504).]

Regular reporting

On a quarterly basis, the Superintendent or designee shall report to the Board the number of students who are currently being referred for expulsion, the number of students who are serving or have served since the most recent report a suspension longer than five days, and the number of students currently serving expulsions, including suspended expulsions.

This report shall include relevant demographic information for each of these students, to the extent that the demographic data does not disclose confidential student information.

Training on and distribution of policy

The Superintendent or designee shall ensure that this policy is distributed to all site administrators and that training about how to implement this policy is provided to site administrators and all other school staff who are likely to be involved in investigating, or processing, serious school discipline cases.

The Superintendent or designee shall also ensure that this policy is distributed to all of its school sites and referenced in the Parent Student Handbook, with illustrative examples of student conduct and the possible consequences.

The Superintendent or designee shall ensure that all school safety plans are updated to include provisions and forms consistent with this policy.

Existing Board Policy and Administrative Regulations

Until such time as Board Policy 5144.1 (Suspension and Expulsion/Due Process) and Administrative Regulation 5144.1 (Suspension and Expulsion/Due Process) are revised, their provisions shall remain in effect to the extent they are not inconsistent with this Policy.

Regulation: BERKELEY UNIFIED SCHOOL DISTRICT

Policy adopted: June 29, 2016 Berkeley, California

AR 5144.3

Expulsions

This AR provides the implementing regulations for BP 5144.3. These regulations govern expulsions, whereas AR 5144.1 governs suspensions.

Definitions

“Accused student” means the student against whom expulsion proceedings are initiated or contemplated.

“Expellable offense” means an offense for which expulsion is permitted under the Education Code.

“Complainant” means the student who is the alleged victim of another student’s actions, regardless of whether a formal complaint has been filed.

“Witness” means a person, other than the accused student or the complainant, who has, or may have, information related to an incident for which expulsion proceedings are initiated or contemplated against an accused student.

“Day” means a calendar day unless otherwise specifically provided.

“School day” means a day upon which the schools of the district are in session or weekdays during the summer recess.

“Superintendent’s designee” means one or more administrators designated by the Superintendent to assist with disciplinary procedures.

“Principal’s designee” means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal’s primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal’s office.

“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 advisor” 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.

Expellable offenses

The legal grounds for expulsion are listed in the Education Code. The Board’s direction with respect to how different alleged offenses are to be treated is detailed in BP 5144.3.

[Ed Code sec. 48915(c), 48915(a), 48900.]

Legal counsel for students facing expulsion

At the earliest possible moment that the Superintendent or designee is aware that a student may face expulsion proceedings, the Superintendent or designee shall inform the accused student and his or her parent/guardian of any free legal counsel of which the

District is aware. The Superintendent or designee shall provide to the student and his or her parent/guardian the name, phone numbers, office address, and email addresses of any such legal counsel, and shall encourage the student and his or her parent/guardian to secure free or retained legal counsel.

If the Superintendent or designee is aware of an office or agency that provides free legal counsel to students facing expulsion, the Superintendent or designee shall, with consent of the accused student's parent/guardian, provide the student's contact information to such agency or office in order to facilitate the provision of free representation to the student facing expulsion.

Extension of suspensions pending expulsion

The process for determining whether a suspension should be extended pending expulsion is detailed in Board Policy 5144.3.

[BP 5144.3]

Instruction during extended suspension

Pursuant to Board Policy, the District shall ensure that any accused student whose suspension is extended pending an expulsion hearing is provided instruction during the period of extended suspension. In order to effectuate this policy, the Superintendent or designee shall ensure that procedures are in place to provide appropriate instruction for students serving extended suspensions. The instruction shall be comparable to the instruction received in Berkeley Independent Study, and/or the Special Education Independent Program. All instruction and related services for students with disabilities shall continue during extended suspension, in accordance with state and federal law.

Use of restorative justice or other alternative resolutions in expulsion cases

Board policy encourages the use of restorative justice and alternative resolutions in lieu of expulsion hearings, even in the most serious cases, including cases of sexual assault and sexual battery. Neither a complainant nor a witness shall ever be required to participate in a restorative justice process, nor be pressured into doing so.

[BP 5144.3.]

Restorative justice in cases of sexual harm requires particularly sensitive and experienced facilitation. Restorative justice practitioners facilitating sexual harm cases should have training and/or experience with those directly impacted by sexual harm, preferably both with victims/survivors and people who have committed acts of sexual harm. They must understand the potential power dynamics involved in sexual violence. Moreover, practitioners must be able to centralize survivor-identified needs while facilitating processes that hold the accused student accountable to these needs.

Where the District has contracted with experienced restorative justice practitioners, and where the Superintendent or designee believes that restorative justice may be a desirable process to pursue, the Superintendent or designee shall refer the complainant to the restorative justice practitioner for that practitioner to more fully explain what such a process would entail. The Superintendent or designee shall also, with consent of the complainant's parent/guardian, provide the complainant's contact information to such practitioner in order to facilitate the introduction of the restorative justice concept to the complainant. While no complainant shall ever be required to participate in a restorative justice process, such a process may go forward without the active participation of the complainant where feasible and appropriate. Nothing said by any student in a restorative justice circle may be used against that student in a subsequent District disciplinary process, unless required by law.

Investigation of expulsion cases

The process for investigation of expulsion cases is detailed in Board Policy 5144.3.

[BP 5144.3.]

Regulations governing the expulsion hearing process

The rights afforded to accused students in the expulsion process are governed by Education Code and Board Policy.

[Ed. Code sec. 48918; BP 5144.3]

Timing of Expulsion Hearing

The accused student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that an expellable offense has occurred and the expulsion process has commenced.

The student is entitled to at least one postponement of an expulsion hearing for up to 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. Consistent with Board Policy, an accused student participating in a restorative justice process may agree to waive the expulsion hearing timelines in order to complete the restorative justice (or other alternative) process or resolution.

[Ed Code sec. 48918(a)(1); BP 5144.3.]

If it is impractical to comply with these time requirements either during the school year or during summer recess, the timelines may be extended pursuant to the provisions of Education Code 48918(a)(3).

Any delay in the expulsion hearing process shall be immediately communicated to the complainant (if any).

Due process for accused student

As detailed in Board Policy, accused students facing expulsion have a right to fully and meaningfully confront the evidence against them and present their defense at an expulsion hearing.

[BP 5144.3.]

Written notice of the hearing shall be forwarded to the accused student and the accused student's parent/guardian and the accused student's legal counsel (if known to the Superintendent or designee) at least 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. All documents and evidence collected in the course of the case investigation (redacted only for attorney work product and student names) that the Superintendent or designee intends to introduce at the hearing, as well as any exculpatory evidence (including evidence that is, or potentially is, favorable to the accused student) regardless of whether the Superintendent or designee intends to introduce it at the hearing;
4. A statement informing the accused student of his/her right to have teachers of his/her choice testify in support of the accused student and of the right to call other witnesses who have relevant testimony to provide, under subpoena if necessary and where allowed by law;
5. A list of any and all witnesses the District intends to have testify at the hearing;
6. All records and statements that the District intends to rely on at the hearing;
7. A copy of district disciplinary rules which relate to the alleged violation;
8. Notification of the accused student's or parent/guardian's obligation, pursuant to Education Code [48915.1](#), to provide information about the student's status in the district to any other district in which the student seeks enrollment.
9. 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 advisor.

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

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

The notice shall include all of the above information to the extent it is available at the time the notice is sent. If more information subject to disclosure becomes available subsequent to the notice being sent, it shall be provided as soon as possible to the accused student and the accused student's parent/guardian and the accused student's legal counsel (if known to the Superintendent or designee). In the rare case where such documents are provided on the day of the expulsion hearing, the accused student shall be provided additional time to review them, which may require a continuation of the hearing.

[BP 5144.3; Ed Code section 48918(b).]

Conduct of the expulsion hearing

As a general matter, administrative panels will be appointed to hear expulsion cases in lieu of the Governing Board. Board Policy details the role of the administrative panel in the expulsion hearing process.

[BP 5144.3.]

When constituting the Administrative Panel, the Superintendent or designee shall appoint an impartial 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 complainant or accused student is enrolled, or on the staff of the school at which the alleged incident took place. The Superintendent or designee shall provide the panelists prior to the hearing with the names of the accused student and complainant (if any), in order to determine whether each of the panelists is capable of fairly and impartially sitting on the panel. If a parent/guardian of either the accused student or the complainant, or any members of either student's immediate family, is an employee of the District, the employee's name shall be provided to the prospective panel members in order to determine whether there is any reason any panel member cannot serve impartially. Prior to the beginning of the hearing, each member of the panel shall be polled to determine if they can be impartial in the case.

[Ed Code sec. 48919.5(a).]

Notwithstanding the provisions of Government Code [54953](#) and Education Code [35145](#), the Administrative Panel 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 days prior to the hearing that the hearing be a public meeting.

[Ed Code 48918(c)(1).]

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complainant shall have the right to have his/her testimony heard 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 videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television.

[Ed Code sec. 48918(c)(3).]

Before commencing a student expulsion hearing, the Governing Board may issue subpoenas, at the request of either the accused student or the Superintendent 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 Administrative Panel may issue such subpoenas at the request of the accused student, the Superintendent or designee, or the county superintendent of schools. All subpoenas shall be issued in accordance with the Code of Civil Procedure [1985-1985.2](#) and enforced in accordance with Government Code [11455.20](#) (formerly 11525).

[Ed Code sec. 48918(i)(1).]

The District shall also allow and compensate teachers to attend the hearing in support of the accused student or the complainant(s) (if any), to the extent possible and without violating the confidentiality of the complainant(s) or the accused student. Teachers may testify on behalf of the accused student with respect to both the offense(s) charged, and the secondary findings that must be made in all cases except those alleging a violation of Education Code section 48915(c), namely that alternative means of correction are not feasible or have repeatedly failed to bring about proper conduct, or that due to the nature of the act, the presence of the accused student causes a continuing danger to the physical safety of the accused student or others.

[Ed Code sec. 48918(f)(2), 48915(b), (e); BP 5144.3.]

Any objection raised by the accused student or the Superintendent 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 accused student. The Board's decision in response to such an objection shall be final and binding.

[Ed Code sec. 48918(i)(2).]

While technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. A recommendation for expulsion cannot be made unless it is supported by substantial evidence that an expellable offense occurred. No recommendation or decision to expel may be made solely on the basis of hearsay evidence.

[Ed Code. sec. 48918(h)(1).]

Findings of fact shall be based solely on the evidence at the hearing. 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.

[Ed Code sec. 48918 (i)(3).]

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.

[Ed Code sec. 48918(g).]

Whether the expulsion hearing is held in closed or public session, the Administrative Panel may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Panel admits any other person to this closed deliberation session, the parent/guardian, the accused student, and the counsel of the accused student shall also be allowed to attend the closed session.

[Ed Code 48918(c)(2).]

At least 48 hours before any student witness testifies, the District's attorney shall meet with the student witness to review his or her testimony, explain the practice of cross-examination, and familiarize the student witness with his or her part in the hearing and the structure thereof. The student witness is entitled to have a parent/guardian present at this meeting.

Testimony by complainant

Prior to an expulsion hearing in which a complainant is also a student, the complainant shall be given five school days' notice before being called to testify, and shall be entitled to have up to two adult support persons of his or her choosing present during his or her testimony. Three adult support persons may be allowed at the discretion of the Superintendent or designee, so long as at least one is a parent/guardian. Although the Education Code limits some of these accommodations in cases of sexual harm, Board Policy extends them to all complainants.

[Ed Code sec. 48918(b)(5); BP 5144.3.]

Before a complainant testifies, support persons shall be admonished that the hearing is confidential.

The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

If one or both support persons are also witnesses, the hearing shall be conducted according to Penal Code [868.5](#).

[Ed Code sec. 48918(b)(5).]

Evidence of specific instances of prior sexual conduct of a complainant 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 complainant shall be given notice and an opportunity to oppose the introduction of this evidence with the assistance of a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complainant is not admissible for any purpose.

[Ed Code 48918(h)(2).]

In all cases in which a complainant is called to testify in an expulsion hearing involving an alleged violation of Education Code section 48900(n), in order to facilitate a free and accurate statement of the experiences of the complainant and to prevent discouragement of complaints, the hearing panel shall provide a nonthreatening environment, including: 1) a room separate from the hearing room for the use of the complainant before and during breaks in testimony; 2) at the discretion of the person conducting the hearing, the complainant shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room; and 3) the person conducting the hearing may: (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complainant; (b) Limit the time for taking the testimony of a complainant to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours; (c) Permit one of the support persons to accompany the complainant to the witness stand.

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

[Ed Code sec. 48915.5 (b), (c).]

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

[Ed Code sec. 48915.5(d).]

Decision

The administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated.

The administrative panel shall submit a detailed, written factual finding to the Board explaining its reasoning for its decision.

[Ed Code 48918(e).]

Board Policy requires that a copy of the administrative panel's findings shall be provided to the accused student. If the administrative panel's recommendation proceeds to the Board for review, the accused student shall be provided, prior to the Board's consideration, the complete documentation on the accused student's case that is provided to the Board.

[BP 5144.3.]

Board Policy details the options available to the Board following receipt of the administrative panel's recommendations.

[BP 5144.3.]

The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed.

[Ed Code. 48918(a)(2).]

Complainants' Rights in the Expulsion Process

As detailed in the Board Policy, complainants have the right to timely information about expulsion proceedings that pertain to their safety and access to academic and extracurricular offerings, as well as information that would reasonably influence their decisions regarding further contact with accused students, so long as the provision of this information does not violate the District's obligations to the confidentiality and privacy of the accused student. When permitted by law, the complainant shall be informed whether and when the accused student is returning to campus after a period of extended suspension or expulsion.

[BP 5144.3.]

In order to ensure the complainant's safety and access to education throughout the expulsion process, the Superintendent or designee shall develop a safety plan for the complainant (if any), carefully tailored to the individual needs of the complainant, to further the complainant's academic progress and facilitate access to all academic and extracurricular opportunities.

The Superintendent or designee shall also inform the complainant of the procedures that will be followed during the expulsion process.

Whenever the Superintendent or designee recommends an expulsion hearing, the complainant shall be provided with a copy of the applicable disciplinary rules and advised of his/her right to:

1. Receive five days' notice of his/her scheduled testimony at the hearing;
2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies (or three at the discretion of the Superintendent or designee, so long as one is a parent/guardian); and
3. In cases brought pursuant to section 48900(n), have a closed hearing during the time he/she testifies.

[Ed Code sec. 48915.5(a).]

The Board's role in the expulsion process

The Board's role in the expulsion process is detailed in Board Policy 5144.3. Instead of employing an Administrative Panel, the Board may hear an expulsion hearing itself or it may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. A hearing conducted by the Board shall conform to the same procedures as apply to a hearing conducted by an Administrative Panel.

[Ed Code sec. 48918(d).]

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. The Superintendent or designee shall inform the accused student immediately of the Board's decision, in writing, within 24 hours of the decision. This notice shall include the following:

1. The specific offense committed by the accused student;
2. The fact that a description of readmission procedures will be made available to the accused student and his/her parent/guardian, and his/her counsel (if any);

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 accused student during the time of expulsion; and
5. Notice of the accused 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 [48915.1](#).

[Ed Code sec 48918(j).]

Although the law prohibits the Superintendent or designee from informing the complainant (if any) that the accused student has been expelled, the Superintendent or designee shall inform the complainant (if any), within 24 hours of the Board's decision, whether the accused student will be returning to school.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include periodic review (as well as assessment of the student at the time of review for readmission), and recommendations for improved attendance and/or academic performance, tutoring, special education assessments, job training, counseling, employment, and community service, among other possible rehabilitative programs.

The rehabilitation plan shall be carefully tailored to the individual needs of the accused student, designed to further the student's academic progress, facilitate the student's understanding of the District's behavioral expectations and the harm caused by the student's behavior, repair the harm caused, ensure the safety of other students and staff, and prevent a reoccurrence of the behavior.

The plan should take into account the individual capacity of the accused student in complying with the rehabilitation terms, including, but not limited to, any learning disability or other disabilities. The plan should also account for the accused student's ability to access the resources necessary to complete the rehabilitation plan.

The rehabilitation plan shall be accompanied by written and oral indication to the accused student that successful completion of the rehabilitation plan may result in early readmission. The Superintendent or designee shall make clear to the accused student how he or she may apply for early readmission and under what circumstances the Superintendent or designee may recommend, and the Board may approve, early readmission.

[Ed Code sec. 48917; BP 5144.3]

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Suspended enforcement of expulsions orders

Board policy requires that the Superintendent or designee ensure that any suspended enforcement of an expulsion order is also accompanied by a rehabilitation plan as described above.

[Ed Code sec. 48917; BP 5144.3]

The rehabilitation plan shall be accompanied by written and oral indication to the accused student that successful completion of the rehabilitation plan may result in early readmission. The Superintendent or designee shall make clear to the accused student how he or she may apply for early readmission and under what circumstances the Superintendent or designee may recommend, and the Board may approve, early readmission.

Readmission and re-entry

Pursuant to Board Policy, when the expulsion time period is expired, the Board shall readmit the expelled student unless the Board makes a finding that the student poses an imminent danger to campus safety or to other students or employees of the District.

The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission, and shall provide a copy of the recommendation and supporting documentation to the accused student. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code [49073-49079](#). If a written request for open session is received from the parent/guardian or accused student, it shall be honored.

If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian immediately and in writing within 24 hours of the Board's decision regarding readmission. The Superintendent or designee shall also inform the complainant (if any) of the decision regarding readmission within 24 hours of the decision, so long as doing so does not violate the District's obligation to the accused student's privacy.

When an accused student re-enters his or her home school, or the District, Board policy requires the Superintendent or designee to design a re-entry plan to facilitate the student's successful re-entry into the school environment. The re-entry plan should be carefully tailored to the unique needs of the accused student, designed to further the student's academic progress, and ensure the safety of the complainant(s) (if any) and/or the school community. Such a plan should include re-entry circles at any school site that has established restorative practices.

If, and only if, the Board determines that the accused student poses an imminent danger to campus safety or to other students or employees of the District, it may deny readmission. If the Board denies the readmission of a student, the Superintendent or designee 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. The Superintendent or designee shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the determination of the educational program which the Superintendent or designee has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

If readmission is denied, the Superintendent or designee shall evaluate the student at least on a monthly basis to determine whether he or she remains, in the opinion of the Superintendent or designee, an imminent danger to campus safety or to other students or employees of the District, and shall provide a recommendation to the Board on at least a monthly basis as to whether to readmit the student. Readmission of the student can occur at the time of any of these monthly reviews, as soon as the Board determines that the student no longer poses an imminent danger.

Right to Appeal

The Superintendent or designee shall send written notice of any decision to expel or suspend the enforcement of an expulsion order during a period of probation to the accused student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board of Education, and the procedures for doing so.

The accused student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board of Education. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

Simultaneously with the filing of the notice of appeal with the county board of education, the accused student or parent/guardian may submit a written request for a copy of the written transcript from the expulsion hearing and supporting documents. Within 10 school days of receipt of a written request by the accused student, the Superintendent or designee shall provide the student with a copy of the written transcripts from the expulsion hearing and supporting documents, at no cost to the student.

[Ed Code sec. 48919]

Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record.

Description of Process

The Superintendent or designee shall create one simple description of the expulsion process and timelines that is made available to families of both accused students and complainants. When completed, this description shall be appended to these regulations.

Regular reporting

The Superintendent or designee shall report expulsion data to the Board on a quarterly basis, as detailed in Board Policy 5144.3. The demographic data reflected in this reports shall include race and gender of accused and expelled students.

The Superintendent or designee shall also maintain the following data and report such data annually to the California Department of Education and the Governing Board, using forms supplied by the California Department of Education:

1. The number of students referred for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period.

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school and district rules related to discipline, suspension, and expulsion, and shall ensure that this communication is consistent with Board Policy 5144.3 and these regulations, as well as any other policies or regulations governing school discipline.

The Superintendent or designee shall ensure that school safety plans and school handbooks are consistent with applicable policies and regulations, and include illustrative examples of student conduct and possible consequences.

Regulation BERKELEY UNIFIED SCHOOL DISTRICT

approved: March 6, 2017 Berkeley, California