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STUDENT CONDUCT

Student Suspensions and Expulsion/Due Process

Definitions

"Day" means a calendar day unless otherwise specifically provided.
(Education Code Section 48925(a))

"School day" means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925(c))

"Suspension" means removal of a student from ongoing instruction for adjustment purposes. Suspension does not include reassignment to another program or class at the same school where the student will receive continuing instruction for the length of day prescribed for students of the same grade level, nor referral to a certificated employee designated by the principal to advise students, nor removal from the class for the remainder of the class period without reassignment to another class or program or sending the student to the principal or principal's designee which does not occur more than once every five (5) school days. (Education Code 48925(d))

"Emergency situation" means a situation determined by the principal or the principal's designee to constitute a clear and present danger to the lives, safety, or health of students or school personnel. (Education Code 48911(c))

"Principal's designee" means an on-site administrator if one is available and if not available a certificated employee specifically designated by the principal in writing to assist with disciplinary procedures. The principal may appoint only one designee to serve at a time and the



name of the designee shall be on file in the principal's office. A second person may be designated in writing by the principal when both the principal and principal's primary designee are absent from the school site. The name of the person shall be on file in the principal's office. (Education Code 48911(h))

"Expulsion" means the removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925(b))

"School property" includes, but is not limited to electronic files and databases (Education Code 48900(s)).

Annual Notification to Parents/Guardians

At the beginning of each school year, the principal of each school shall ensure that all students, including foster youth, and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. (Education Code 48900.1, 48980)

Notice to Law Enforcement Authorities

The chief administrative employee at a school shall notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the student which may violate Penal Code Sections 245 (Assault with a Deadly Weapon), 626.9 (Firearms; schools, Gun-Free School Zone Act), or 626.10 (Schools; dirks, daggers, knives or razors), or Education Code Section 48900(c) (unlawfully possessed, used, sold or otherwise furnished, or been under the influence of any controlled substance, alcoholic beverage, or intoxicant of any kind) or (d) (unlawfully offered or arranged or negotiated to sell any controlled substance, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant). (Education Code 48902)

Suspensions

The principal or the principal's designee may suspend a student, including a foster youth, from school or recommend a student, including a foster youth, for expulsion pursuant to Education Code



Section 48900 and 48915 if the principal or principal's designee determines that the student has committed any of the following acts:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense. 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 the student 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. (Education Code 48900 (a) and (t)) 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. (Education Code 48900(b))
2. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance listed in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))
3. Unlawfully offered, arranged or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d))
4. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
5. Caused or attempted to cause damage to school property or private property. School property includes, but is not limited to, electronic files and databases. (Education Code 48900(f) and (u))
6. Stolen or attempted to steal school property or private property. School property includes, but is not limited to, electronic files and databases. (Education Code 48900(g) and (u))



7. Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a student of their own prescription products. (Education Code 48900(h))
8. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
9. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code. (Education Code 48900(j))
10. Knowingly received stolen school property or private property. School property includes, but is not limited to, electronic files and databases (Education Code 48900(l) and (u))
11. 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. (Education Code 48900(m))
12. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
13. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that student from being a witness or retaliating against that student for being a witness, or both. (Education Code 48900(o))
14. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))
15. Engaged in, or attempted to engage in, hazing as defined in Education Code 48900(q) and IUSD AR 5145.9.
16. Engaged in an act of bullying, as defined in Education Code 48900 (r) and Administrative Regulation 5131.2.
17. Made terroristic threats against school officials and/or school property. A terroristic threat includes any written or oral statement that is intended to be taken as a threat, is so specific



and immediate that it causes the person threatened to be in sustained fear, or threatens to commit a crime that could result in death, serious injury, or property damage over \$1,000. (Education Code 48900.7)

Students in grades 4 through 12 are also subject to suspension or recommendation for expulsion for any of the acts listed below:

18. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)
19. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 and 48900.3.
20. Intentionally engaged in harassment, threats or intimidation directed against district personnel or a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading the rights of school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)
21. The Superintendent, principal, or principal's designee may use their discretion to provide alternatives to suspension or expulsion for a student, including a foster youth, subject to discipline under this regulation, using a research-based framework with strategies that improve behavioral or academic outcomes, that are age appropriate and designed to address and correct the student's specific misbehavior as specified in Education Code Section 48900.5. (Education Code 48900(v))
22. For students, including foster youth, who are truant, tardy, or otherwise absent from assigned school activities, all reasonably available alternatives to suspension or expulsion are to be implemented. The Multi-Tiered System of Supports (MTSS), which includes restorative practices, trauma-informed practices, social emotional learning, and schoolwide positive behavior interventions and support, may be used to help students gain critical social 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 48900 (w) (1)(2))



A student, including a foster youth, may be suspended or expelled for any of the acts listed above if the act is related to a school activity or school attendance occurring at any district school or within any other school district, including, but not limited to, the following circumstances: (Education Code 48900)

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

Suspensions from Class by Teachers (Education Code 48910)

A teacher may suspend a student, including a foster youth, from class for the day of the suspension and the day following for any of the acts set forth in Education Code 48900 (listed above). The teacher must:

1. Immediately report the suspension to the principal or principal's designee; and
2. Immediately send the student to the principal or principal's designee; and
3. As soon as possible, ask the parent or guardian of the student to attend a parent-teacher conference regarding the suspension.
4. Whenever practicable, a school counselor or school psychologist shall attend the conference.
5. At the request of the teacher or parent/guardian, a school administrator shall attend the conference.

During the period of the suspension, the student shall not return to the class from which the student was suspended unless both the teacher and principal (or principal's designee) agree to the student's return. The student shall not be placed in another regular class or, if assigned to more than one class per day, to other regular classes scheduled at the same time during the period of suspension.

A teacher may also refer a student, including a foster youth, to the principal for consideration of a suspension from school.



The teacher of any class from which a student, including a foster youth, is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913).

A teacher may request that the parent/guardian of a student, including a foster youth, whom the teacher has removed, attend a portion of a school day in their 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. The attendance of the parent/guardian shall be limited to the class from which the student was suspended. (Education Code 48900.1)

This notice shall also:

1. Inform the parent/guardian when their presence is expected and by what means they may arrange an alternate date
2. Describe the legal protections afforded to the parent/guardian as an employee under Labor Code 230.7
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

Suspensions From School By Superintendent, Principal, or Principal's Designee (Education Code 48911)

The principal, the principal's designee or the superintendent may suspend a student, including a foster youth, from school for no more than five (5) consecutive school days unless the suspension is extended pending an expulsion. (Education Code 48911)

The principal or principal's designee shall immediately suspend any student, including a foster youth, found at school or at a school activity to be: (Education Code 48915)

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 Penal Code 243.4
5. Possessing an explosive as defined in 18 USC 921

A student, including a foster youth, may be suspended upon a first offense if the principal or superintendent determines that the student violated subdivisions (a), (b), (c), (d), or (e) of Section 48900 or that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process (Education Code 48900.5). In all other cases, a student, including a foster youth, may be suspended only when other means of correction fail to bring about proper conduct.

Prior to suspension, the principal or the principal's designee shall conduct an informal conference between the student and, whenever practicable, the teacher, supervisor or other school employee referring the student for suspension.

At the conference, the student shall be informed of the reason for the disciplinary action and the evidence against them and shall be given the opportunity to present their version of the facts and evidence in his or her defense.

A student, including a foster youth, may be suspended prior to the conference only if the principal or the principal's designee determines that an "emergency situation" exists. An "emergency situation" is a situation determined by the principal, the principal's designee or the Superintendent to constitute a clear and present danger to the lives, safety or health of students or school personnel. If a student is suspended without a conference, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is a Native American child, the Native American child's tribal social worker and, if applicable, county social worker, 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 waived by the student or the student is physically unable to attend (e.g. incarceration, hospitalization). In such cases, the conference shall be



held as soon as the student is physically able to return to school for the conference.

Notice of Suspension (Education Code 48911(d))

At the time of suspension, a school employee shall make a reasonable effort to contact the student's parent or guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is a Native American child, the Native American child's tribal social worker, and, if applicable, the county social worker, in person or by telephone.

Whenever a student is suspended from school, the parent or guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Native American child's tribal social worker and, if applicable, the county social worker, shall be notified in writing of the suspension. This notice shall state the specific offense committed by the student. (Education Code 48900.8.)

The written notice may also state the date and time when the student may return to school and, if school officials request the parent/guardian meet with school officials to discuss the causes and duration of the suspension and any other matters pertinent to the matter, the notice may add that state law requires parents/guardians respond to such requests without delay.

If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or a Native American child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such individuals to respond to the request without delay. However, no penalties may be imposed on a student for failure of the student's parent or guardian, a foster youth's educational rights holder, attorney, and county social worker, or the Native American child's tribal social worker and, if applicable, the county social worker to attend a conference with school officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student's parent or guardian at such conference.

Duration of Suspension



Except as provided in Education Code Section 48911(g) (extension of suspension where an expulsion is being processed) and 48912 (suspension by the Board of Education), the total number of days for which a student, including a foster youth, may be suspended shall not exceed twenty (20) school days in a school year. If a student, for adjustment purposes, is transferred to, or enrolled in, another regular school, an opportunity school or class or a alternative education school or class, the total number of school days for which the student may be suspended shall not exceed thirty (30) days in any school year. (Education code 48903)

A student, including a foster youth, for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building or site for the entire period of suspension, the following conditions shall apply: (Education Code 48911.1).

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student is a Native American child, the Native American child's tribal social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, the notification shall be made in writing. (Education Code 48911.1)



If the Board of Education is considering the expulsion of a suspended student from any school, the superintendent or designee may, in writing, extend the suspension until the Board has made a decision, provided the following requirements are followed: (Education Code 48911)

1. The extension of the original period of suspension is preceded by notice of the extension with an offer to hold a conference concerning the suspension, giving the student the opportunity to be heard.
2. The Superintendent or designee determines, following a meeting in which the student and parent/guardian were invited to participate, that the student's presence at the school would endanger persons or property or threaten to disrupt the instructional process.

If the student involved is a foster youth or Native American child, the superintendent or designee shall notify the district's educational liaison of the need to invite the foster youth's educational rights holder, attorney and county social worker, or the Native American child's tribal social worker or, if applicable, the county social worker, to attend the meeting. If the student is a homeless child, the Superintendent or designee shall notify the district liaison for homeless students. Finally, in lieu of or in addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the behavior and keep the student in school. (Education Code 48911(g), 48853.5, 48918.1)

If the student or the student's parent(s)/guardian(s), including a foster youth or their educational rights holder/attorney/social worker, has requested a meeting to challenge the original suspension pursuant to Education Code Section 48914, the purpose of the above meeting shall be to decide upon the extension of the suspension order and may be held in conjunction with the meeting on the merits of the suspension. (Education Code 48911(g))

The Board of Education may suspend a student, including a foster youth, attending an alternative education school or class for not longer than the remainder of the semester during which the acts leading



directly to the suspension occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

The Board of Education, when considering the suspension or other disciplinary action against a student, other than expulsion, shall conduct the hearing in closed session if a public session would lead to the giving out of information concerning a student other than directory information as defined in Education Code Section 49061.

The Board of Education shall notify the student and the student's parents/guardians, including a foster youth and their educational rights holder/attorney/social worker, of the intent to hold a closed session to discuss the suspension or discipline of the student, other than expulsion. Unless the parent/guardian or student, within forty-eight (48) hours of the receipt of the notice, requests that the hearing be held at a public meeting, the hearing shall be conducted in closed session. If such a request is received, the meeting shall be conducted in public session, except that any discussion at the meeting, which may be in conflict with the right to privacy of any other student, shall be conducted in closed session. (Education Code 48912)

Meeting With Superintendent or Designee (Education Code 48914)

If a suspension is ordered by a principal or the principal's designee, the student or student's parent/guardian, including a foster youth or their educational rights holder/attorney/social worker, shall have the right to request a meeting with the superintendent or the superintendent's designee. The meeting shall be held within three (3) school days of the time such request is received by the superintendent or the superintendent's designee.

The superintendent or the superintendent's designee shall meet with the parent or guardian of a suspended student to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

The student may designate a representative to be present with them at the meeting.

EXPULSIONS

Grounds for Expulsion (Education Code 48915)



The Board of Education shall expel, as required by law, any student found to have committed certain offenses listed below under "Mandatory Recommendation and Mandatory Expulsion."

The Board of Education also may order a student, including a foster youth, expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, superintendent, hearing officer or administrative hearing panel, based on finding either or both of the following: (Education Code 48915(b) and (e))

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

Mandatory Recommendation for Expulsion

Unless the principal, superintendent, or superintendent's designee finds that expulsion is inappropriate due to particular circumstances, the principal, superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a)(1))

1. Causing serious physical injury to another person, except in self-defense.
2. Possession of any knife as defined in Education Code 48915(g), explosive or other dangerous object of no reasonable use to the student.
3. Unlawful possession of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis. (Education Code 48916.5)
4. Robbery or extortion.
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee.

Mandatory Recommendation and Mandatory Expulsion



The principal, superintendent or superintendent's designee shall recommend that the Board of Education expel any student, including a foster youth, found at school or at a school activity to be: (Education Code 48915(c))

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 Penal Code 243.4.
5. Possessing an explosive as defined in 18 USC 921.

Upon finding that the student committed any of the above acts, the Board of Education shall expel the student. (Education Code 48915)

The 48915 codes listed above must occur: While on school grounds;

1. During or while going to or coming from, a school sponsored activity.

For students, including foster youth, who are truant, tardy, or otherwise absent from assigned school activities, all reasonable available alternatives to suspension or expulsion are to be implemented. (Education Code 48900 (w))

Expulsion of Students With Exceptional Needs Enrolled in Special Education Programs (Education Code 48915.5)

When a decision has been made to suspend a student with a disability, including a foster youth, for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to an isolation of the district's code of conduct, the following procedural safeguards shall apply:



1. On the date the decision to take disciplinary action is made, the student's parents/guardian shall be notified of the decisions and provided the procedural safeguards notice pursuant to 34 CFR 300.504. If the student is a foster youth, the notice shall be given to the student's educational rights holder, attorney, and county social worker, and, if the student is an Indian child, the student's tribal social worker and, if applicable, county social worker (Education Code 48853.5; 20 USC 1415(k)(1)(H); 34 CFR 300.530)
2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action (20 USC 1415(k)(1)(E); 34 CFR 300.530. If the student is a foster youth or Indian Child, the foster youth's educational rights holder, attorney, or county social worker, or the Indian Child's tribal social worker and, if applicable, county social worker, shall be invited to participate in the manifestation determination review (Education Code 48915.5)

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, and teacher observations, and any relevant information provided the the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies.

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)



3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the student's conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student

If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which the student was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** When it has been determined that the student's conduct was not a manifestation of the disability, the student may be disciplined in accordance with the procedures for students without disabilities

However, the student's IEP team shall determine services necessary to enable the student to participate in the general education curriculum in another setting and to allow the student to progress toward meeting the goals set out in the IEP. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The term "student with previously identified exceptional needs" means a student, including a foster youth, who meets the requirements of Education Code 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program.



The parent/guardian of each student with previously identified exceptional needs has the right to participate in the individualized education program team meeting preceding the commencement of expulsion proceedings through actual participation, representation, or a conference call. Each parent/guardian shall be notified of their right to participate in the meeting at least forty-eight (48) hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's/guardian's participation, if the notice required by this subdivision has been provided.

Each parent/guardian may request that the meeting be postponed for up to three (3) additional school days. In the event that a postponement has been granted, the local educational agency may extend any suspension of a student, including a foster youth, for the period of postponement. Otherwise, suspensions of special education students may not be extended pending expulsion, nor may an alternative school placement be assigned without the express written consent of the parent's/guardian's. *Honig v. Doe*(1988) 98 L.Ed.2d.

In determining whether a student should be expelled, the individualized education program team shall base its decision on recent and relevant information regarding the student.

The term "recent", as used in this subdivision, means information that has been acquired within three (3) years of the date of the alleged misconduct.

The term "relevant information," as used in this subdivision, means all of the following:

1. A review of the student's school progress and behavior, if available, including, but not limited to, a review of the student's individualized education program, teacher progress reports and comments, school health records, and school discipline records.
2. A review of the ability of the student to conform their behavior to the prescribed standards, and a determination of the relationship, if any, between the student's behavior and their qualifying condition.

Expulsion of students with exceptional needs; possession of firearm, knife, explosive, or other dangerous object. (Education Code 48915.6)



The restrictions and special procedures provided in Education Code 48915.5 for the expulsion of a student with exceptional needs shall not apply when the student possessed a firearm, knife, explosive, or other dangerous object of no reasonable use to the student, or the student committed sexual battery, at school or at a school activity off school grounds, unless, for these acts the restrictions and special procedures in Education Code 48915.5 are mandated under federal law, including Section 1415 of Title 20 of the United States Code.

Length of Expulsion (Education Code 48916)

Upon ordering the expulsion, the Board of Education shall set a date when the student shall be reviewed for readmission to a school within the District.

For a student, including a foster youth, expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board of Education may set an earlier date on a case-by-case basis.

For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board of Education shall recommend a plan for the student's rehabilitation, which shall include:

1. Periodic review and a preliminary assessment for readmission at least 45 days before the end of the expulsion term.
2. The plan shall be tailored to the individual student's needs and address the student's behavior that led to the expulsion, and include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service and other rehabilitation programs.

Students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in Alternative to Suspension Program, or a county/private drug rehabilitation program,



designed to assist students and families who may be facing substance abuse before returning to school. (Education Code 48916.5)

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

The Board of Education shall not require the student or the student's parent or guardian to pay for any costs or services the board determines to be necessary for the student to complete a plan of rehabilitation. A rehabilitation plan that is not completed due to financial or transportation barriers or lack of viable opportunities to complete a term of the rehabilitation plan shall not be a basis to deny the readmission of the student.

Student's Right to Hearing (Education Code 48918(a))

An expulsion hearing shall be held within thirty (30) school days of the date the principal or superintendent determines the student has committed any of the acts enumerated in Section 48900 of the Education Code unless the student, including a foster youth, requests in writing that the hearing be postponed. The student shall be entitled to one postponement for a period of not more than thirty (30) calendar days. Additional postponements may be granted by the Board of Education. In the event that compliance by the Board of Education with these time requirements is impracticable, the superintendent or his designee may, for good cause, extend the time period for five (5) additional school days. The reason for the extension of the time for the hearing shall be included as part of the record at the time the expulsion hearing is conducted.

Written Notice of the Hearing (Education Code 48918(b))

Written notice of the hearing shall be forwarded to the student and the student's parent or guardian at least ten (10) calendar days prior to the date of the hearing. If the student facing expulsion is a foster student or Native American child, the Superintendent or designee shall also send notice of the hearing to the foster youth's educational rights holder, attorney, and county social worker, or the Native American



child's tribal social worker and, if applicable, county social worker, at least ten calendar days prior to the hearing (Education Code 48918.1)

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the District liaison for homeless students at least ten (10) calendar days prior to the hearing (Education Code 48918.1). Such notice shall include:

1. The date, time, 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 District which relate to the alleged violation; and
4. Notification of the 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. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) and (c).
5. The opportunity of the student or the student's parent or guardian to:
 - a. Appear in person or to employ and be represented by counsel or by a non-attorney advisor;
 - b. To inspect and obtain copies of all documents to be used at the hearing;
 - c. To confront and question all witnesses who testify at the hearing;
 - d. To question all other evidence presented; and
 - e. To present oral and documentary evidence on the student's behalf, including witnesses.

Conduct of Hearing

In lieu of conducting an expulsion hearing itself, the Board of Education may appoint an impartial administrative hearing panel of three (3) or



more certificated employees of the District, none of whom shall be on the staff of the school in which the student, including a foster youth, is enrolled. In lieu of the appointment of district employees exclusively, the District may request the services of one or more certificated persons not employed by the District. Such hearing shall not be conducted in conflict with any procedures established in this policy.

The Board of Education, or in the case where the Board of Education appoints an administrative hearing panel, the administrative panel shall conduct a hearing to consider the expulsion of a student in a session closed to the public unless the student or the student's parents or guardian requests, in writing at least five (5) days prior to the date of the hearing, that the hearing be conducted at a public meeting. If such a request is made of the Board of Education, the meeting shall be public. Whether the expulsion hearing is held in closed or public session, the Board of Education may meet in closed session to determine if the student should be expelled. If the Board of Education admits any other person to the closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have their 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. (Education Code 48918(c))

Within three (3) school days following such hearing, an administrative hearing panel shall determine whether to recommend expulsion to the Board of Education.

If the decision of the administrative hearing panel is to not recommend expulsion, the expulsion proceedings shall be terminated and the student shall be immediately reinstated and allowed to return to a classroom instructional program, any other instructional program, a rehabilitation program or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent or their designee after consultation with District



personnel, including the student's teachers and the student's parent or guardian. The decision not to recommend expulsion shall be final.

If the hearing officer or administrative panel recommends expulsion, findings of fact in support of such recommendation shall be prepared and submitted to the Board of Education. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the Board of Education accepts the recommendation calling for expulsion, such acceptance shall be based upon either a review of the findings of fact and recommendations submitted by administrative hearing panel or upon results of any supplementary hearing conducted pursuant to this policy as the Board of Education may order.

The decision of the Board of Education to expel a student shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing. No evidence to expel shall be based solely upon hearsay evidence. An administrative hearing panel, or Board of Education, upon a finding that good cause exists, may determine that the disclosure of the identity of a witness and the testimony of the witness at the hearing 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 which shall be examined only by the Board of Education or the hearing officer or administrative panel. Copies of the sworn declarations which are edited in such a manner as to delete the name and identity of the witness shall be made available to the student.

A record of the hearing shall be made. Such a 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.

Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to reply in the conduct of serious affairs. A decision of the Board of Education to expel shall be supported by substantial evidence showing that the student committed any of the acts enumerated in Section 48900 or 48915 of the Education Code.



Whether an expulsion hearing is conducted in closed or public session by the Board of Education or before a hearing officer or administrative hearing panel, final action to expel a student shall be taken by the Board of Education only at a public meeting. Written notice of any decision to expel or to suspend the enforcement of an expulsion order shall be sent to the student or parent or guardian and shall be accompanied by notice of the right to appeal such expulsion to the county board of education within thirty (30) days, notice of the education alternative placement to be provided to the student during the time of expulsion, and notice of the obligation of the parent, guardian, or student, upon the student's enrollment in a new school district, to inform that district of the student's expulsion.

A decision of the Board of Education whether to expel a student shall be made within ten (10) school days following the conclusion of the expulsion hearing unless the student requests in writing that such decision be postponed.

If compliance by the Board of Education with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of Board of Education meetings of more than two (2) 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 Board of Education meetings shall not exceed twenty (20) school days, as defined in Education Code 48925(c), and unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than twenty (20) calendar days prior to the first day of school for the school year.

The Board of Education shall maintain a record of each expulsion, including the cause therefore. Records of expulsion shall be a nonprivileged, disclosable public record.

The expulsion order and the causes therefore shall be recorded in the student's mandatory interim record and shall be forwarded to any school in which the student subsequently enrolls upon a request from the admitting school for the student's school records.

Suspension of Expulsion (Education Code 48917)



The Board of Education, upon voting to expel a student, including a foster youth, 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 student to a school, class, or program which is deemed appropriate for the rehabilitation of the student. During the period of the suspension of the expulsion order, the student shall be deemed to be on probationary status. The suspension of an expulsion order under this section may be revoked by the Board of Education upon the student's commission of any of the acts enumerated in Section 48900 or for any violation of the district's rules and regulations governing student conduct.

When it is alleged that a student, including a foster youth, on probationary status pursuant to Education Code Section 48917 has committed an offense in violation of Education Code Section 48900 or the District's rules and regulations governing student conduct, the principal or the principal's designee shall attempt to hold a conference with the student and the student's parent or guardian. At the conference, the student shall be informed of the reason the principal or the principal's designee is recommending revocation of the suspension of the expulsion order and the evidence against the student and shall be given an opportunity to present their version of the facts and evidence in their defense. In the event the student or the student's parent or guardian fails to attend the conference, the principal or the principal's designee shall consider the evidence they have received and may recommend revocation of the expulsion order.

Following the conference, the principal or the principal's designee shall either find that no offense was committed and maintain the student on probationary status or that an offense was committed and present findings to the Board of Education to determine whether the revocation of the suspension of the expulsion order should be ordered by the Board of Education. Upon revocation of the suspension of an expulsion order, a student may be expelled under the terms of the original expulsion order.

Upon satisfactory completion of the rehabilitation assignment of a student, the student, including a foster youth, shall be reinstated by the Board of Education in a school of the district. Upon reinstatement, the Board of Education may also order the expungement of any or all records of the expulsion proceedings.



A decision of the Board of Education to suspend an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Education Code Section 48919. Any appeal shall be filed within thirty (30) days of the original vote of the Board of Education.

Before an expulsion order is finalized, the Board of Education shall notify the student and the student's family of the available educational options for expelled students as outlined in the plan pursuant to Section 48926 of the California Education Code. No later than three days after the expulsion, the Board of Education or their designee shall complete the initial referral of the student for enrollment in an educational program.

Readmission Procedures of Expelled Student

A copy of the readmission procedure shall be mailed to the expelled student and the student's parent or guardian at the time the expulsion order is entered.

The District staff shall develop a standard readmission form which expelled students and their parents/guardians may use to apply for readmission.

The form shall include the present address of the student, all educational programs attended by the student during the period of expulsion, all activities of the student during the period of expulsion including, but not limited to, counseling, employment, community service and/or rehabilitative programs, and other information deemed appropriate by the District staff. The form may also seek information regarding any convictions or similar dispositions of criminal charges by a court or any suspensions, expulsions or other disciplinary action taken against the student by another school or educational program.

The District staff may contact persons having contact with the student during the period of expulsion and report their findings to the Board of Education.

Upon completion of the readmission review process, the Board of Education shall readmit the student, unless the board makes a finding



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

The District staff shall, within fifteen (15) school days, submit to the Board of Education the student's application for readmission along with any reports compiled by the District staff for consideration at the next regularly scheduled board meeting.

The Board of Education shall review the application and accompanying report and either grant or deny the application for readmission. If the application for readmission is granted, the District staff shall inform the student and the student's parent/guardian in writing of the school which the student may attend. The notice of readmission shall be sent within five (5) school days of the Board of Education's decision and the student may enroll at any time thereafter.

If the application for readmission is denied, the Board of Education shall notify, in writing, the student and the student's parents within five (5) school days of their right to a hearing before the Board of Education to review the denial of the application for readmission. Upon receipt of the parent's/guardian's or student's request for a hearing, a hearing shall be held within twenty (20) school days unless the parties and the district agree to a postponement. Notice of the hearing date shall be sent to the parent/guardian at least days prior to the hearing.

If the Board of Education denies the readmission of an expelled student, the Board of Education shall make a determination either to continue the placement of the student in the alternative educational program initially selected for the student, but need not be limited to, serving expelled students, including placement in a county community school. If the student is not readmitted, the expulsion term may be extended for one semester at a time, at which point that student shall be reassessed for readmission.

The Board of Education shall provide written notice to the expelled student and the student's parent or guardian describing the reasons



for denying the student readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled student. The expelled student shall enroll in that educational program unless the parent or guardian of the student elects to enroll the student in another school district.

The hearing to review the denial of the application for readmission shall be conducted in the same manner as an expulsion hearing except that the parent/guardian and student shall have the burden of proof to show that the student should be readmitted.

The decision of the Board of Education shall be final.

Appeal to County Board of Education

Time for Filing Appeal (Education Code 48919)

An expelled student may, within thirty (30) days following the decision of the Board of Education to expel, file an appeal with the county board of education.

The county board of education is required to hold a hearing within twenty (20) school days of the filing of the appeal.

It shall be the responsibility of the student and the student's parent or guardian, at the time of filing the appeal, to request a copy of the written transcript and supporting documents from the District. The school district is required to provide the transcript, supporting documents and records within ten (10) school days following the request. (Education Code 48919)

The cost of the transcript shall be borne by the student, unless the student's parent or guardian certifies to the District that they cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses or both. (Education Code 48921)

It shall be the responsibility of the student and the student's parent or guardian to file the transcripts, supporting documents and records with the county board of education following transmittal of the records to the student and the student's parent or guardian.

Student Expelled From Other Districts (Education Code 48911.1)



The Board of Education realizes that students expelled from school for serious offenses represent a possible danger to the students or staff at other schools in which they may seek to enroll. In order to identify and prohibit the enrollment of any such potentially dangerous student in the District, the Board of Education shall request expulsion information from the expelling district whenever it receives an enrollment request from an individual who has been expelled. Information about any student expelled from the district shall be supplied within five (5) working days to any other district that requests it.

The Board of Education shall hold a hearing whenever it finds that the student seeking enrollment was expelled from another district for an act other than those described in subdivision (a) or (c) of Education Code Section 48915.

The hearing and notice shall be conducted in accordance with expulsion procedures described in Section 48918 and in Administrative Regulations.

Upon determining, at this hearing, whether the individual in question poses a potential danger to district students or employees, the Board of Education shall either deny enrollment for the remainder of the expulsion period, permit enrollment, or permit conditional enrollment. If the student is found not to pose a danger, the student shall be admitted or conditionally admitted. If the enrollment is permitted, an interdistrict agreement shall be required unless the student has, since being expelled, established legal residence in the district.

Legal Reference:

EDUCATION CODE

17292.5 Program for expelled students: facilities

212.5 Sexual harassment

323 Hate Violence

35145 Open board meetings

35146 Closed sessions regarding suspensions

35291 Rules for government and discipline of schools

35291.5 Rules and procedures on school discipline

48645.5 Former juvenile court school students; enrollment

48853-48853.5 Foster Youth



48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parent/Guardian notifications
49073-49079 Privacy of student records

GOVERNMENT CODE

11455.20 Informal hearing procedures
54950-54963 The Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug Paraphernalia
11053-11059 Controlled substances: standards and schedules

LABOR CODE

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

PENAL CODE

240 Assault defined
242 Battery defined
243.2 Battery on school grounds
243.4 Sexual battery
245 Assault with a deadly weapon
245.6 Hazing
261-289 Sexual Assault
422.55 Definition of a hate crime
626.10 Dirks, daggers, knives, razors, or stun guns
626.2 Entry upon campus after written notice of suspension or dismissal without permission
626.9 Gun-Free School Zone Act of 1995

FEDERAL REFERENCES

18 USC 921 Definitions: firearms and ammunition
20 USC 1415(K) Students with disabilities; placement in alternative educational setting
20 USC 7961 Gun-Free School Act
42 ISC 11431-11435 Education of homeless children and youths



CASE LAW

Honig v. Doe (1988) 98 L.Ed.2d.

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