Student Discipline

Intent of Policy

The intent of this policy is to support the District's mission of teaching students to become responsible, respectful and resourceful members of their communities. The District shall implement a uniform system of positive discipline that improves social, emotional and academic outcomes for all students, including students with disabilities and students from underrepresented groups. Whenever practical and safe, the District shall utilize positive strategies for correcting misbehavior in lieu of suspensions and expulsions. Rules and procedures shall be applied fairly and in a nondiscriminatory manner.

"Enumerated Grounds" 1 through 23 for Suspension and Expulsion

A student shall not be suspended from school or recommended for expulsion, unless the Superintendent or the principal of the school in which the student is enrolled determines that the student has committed any of the following acts ("Enumerated Grounds"):

1. **Caused/Attempted/Threatened Physical Injury**

Caused, attempted to cause, or threatened to cause physical injury to another person.

2. **Willful Use of Force**

Willfully used force or violence upon the person of another, except in self-defense.

3. **Dangerous Objects**

Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object. Exception: A student may possess an object of this type, if the student obtains written permission to possess the item from both:

a. A certificated school employee; and

b. The principal or the principal's designee.

4. **Sale/Possession/Furnishing Controlled Substances, Alcohol, or Intoxicants**

Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any of the following:

a. A controlled substance listed in Health and Safety Code, Division Ten, Chapter Two (§11053 *et seq.*);

b. An alcoholic beverage; or

c. An intoxicant of any kind.

5. **Sale/Delivery of "Look-Alike" Controlled Substances, Alcohol, or Intoxicants**

A student may be suspended or expelled pursuant to this subsection if each of the following occurs:

a. The student unlawfully offered, arranged, or negotiated to sell any of the following:

i. A controlled substance listed in Health and Safety Code, Division Ten, Chapter Two (§11053 *et seq.*);

ii. An alcoholic beverage; or

iii. An intoxicant of any kind.

and

b. 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.

6. **Robbery or Extortion**

Committed or attempted to commit robbery or extortion.

7. **Damage to Property**

Caused or attempted to cause damage to District property or private property.

8. **Theft of Property**

Stole or attempted to steal District property or private property.

9. **Tobacco – Possession/Use**

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. Exception: This policy does not prohibit the use or possession by a student of his or her own prescription products.

10. **Obscene Acts**

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

11. Unlawful Possession/Sale of Drug Paraphernalia

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

12. Disruption of School Activities/Willful Defiance of District Authority

Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other District personnel engaged in the performance of their duties. Exceptions are as follows:

a. Exception for Grades K-3: the District shall not suspend a student enrolled in kindergarten or any of grades 1 to 3 for disruption of school activities or willful defiance of District authority except as provided for in Education Code § 48910 (teacher-initiated classroom suspension); and

b. Exception for Grades K-12: the District shall not recommend for expulsion a student in kindergarten or any of grades 1 to 12 for disruption of school activities or willful defiance of District authority except as provided for in Education Code § 48910 (teacher-initiated classroom suspension).

13. Knowing Receipt of Stolen School Property or Private Property

Knowingly received stolen school property or private property.

14. Possession of Imitation Firearm

Possessed an imitation firearm. "Imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm.

15. Sexual Assault

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.

16. Harassment/Threatening/Intimidating Complaining Witness

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

17. Unlawful Sale of Soma

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

18. Hazing

Engaged in, or attempted to engage in, hazing. For purposes of this policy "hazing" occurs when there is:

a. A method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by the District or a school within the District; and

b. The method of initiation is likely to cause either:

i. Serious bodily injury; or

ii. Personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student.

Exception for "hazing": For purposes of this policy, "hazing" does not include athletic events or school-sanctioned events.

19. **Bullying**

Engaged in an act of bullying as set forth below.

Definitions

The following terms have the following meanings:

"Bullying"

In order to meet the definition of "bullying" the conduct must include both of the following:

a. 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 student or group of students as defined in Education Code §§ 48900.2, 48900.3, or 48900.4; and

b. The actions or conduct is directed toward one or more students and has or can be reasonably predicted to have the effect of one (1) or more of the following:

i. Placing a reasonable student or students in fear of harm to that student's or those students' person or property;

ii. Causing a reasonable student to experience a substantially detrimental effect on his or her physical or mental health;

iii. Causing a reasonable student to experience substantial interference with his or her academic performance; or

iv. Causing a reasonable student to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

"*Electronic Act*"

An "electronic act" means the creation or transmission, whether originated on or off the schoolsite, 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:

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

b. A post on a social network Internet Web site, including, but not limited to:

i. Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (b) under the definition of "bullying."

ii. Creating a credible impersonation of another actual student for the purpose of having one or more of the effects listed in paragraph (b) under the definition of "bullying." "Credible impersonation" means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that another student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated;

iii. Creating a false profile for the purpose of having one or more of the effects listed in paragraph (b) under the definition of "bullying." "False profile" means a profile of a fictitious student or a profile using the likeness or attributes of an actual student other than the student who created the false profile.

c. An act of "cyber sexual bullying."

i. For purposes of this policy, "cyber sexual bullying" consists of the following two elements:

1) The dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a student to another student or to school personnel by means of an electronic act;

2) The conduct has or can be reasonably predicted to have one or more of the effects listed in paragraph (b) under the definition of "bullying."

ii. A "photograph or other visual recording", as described above, shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording, or other electronic act.

iii. Exception to Cyber Sexual Bullying: For purposes of this policy, "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.

d. Exception for "electronic act": 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.

"*Reasonable Student*"

A "reasonable student" means a student, including, but not limited to, an exceptional needs student, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

20. Sexual Harassment (Does Not Apply to Students in Grades K-3)

Committed "sexual harassment" as defined in Education Code § 212.5. The conduct must be considered by a reasonable person of the same gender as the victim to be:

a. Sufficiently severe or pervasive to have a negative impact upon the individual's academic performance; or

b. To create an intimidating, hostile, or offensive educational environment.

21. Hate Violence (Does Not Apply to Students in Grades K-3)

Caused, attempted to cause, threatened to cause, or participated in an act of, "hate violence," as defined in Education Code § 233(e).

22. Harassment, Threats, or Intimidation

Intentionally engaged in harassment, threats, or intimidation meeting all of the following elements:

a. Is directed against District personnel or students;

b. Is sufficiently severe or pervasive; and

c. Resulted in the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either District personnel or students by creating an intimidating or hostile educational environment.

23. **Terroristic Threats**

Made "terroristic threats" against either District officials or District property, or both.

For purposes of this policy a "terroristic threat" shall include any statement meeting the following elements (a) through (e):

a. The statement may be written or oral;

b. Made by a person who willfully threatens to:

i. commit a crime which will result in death, great bodily injury to another person; or

ii. property damage in excess of one thousand dollars ($1,000);

c. It is specifically intended to be taken as a threat, even if there is no intent of actually carrying it out;

d. 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

e. Causes the person threatened to reasonably 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.

****END OF ENUMERATED GROUNDS FOR SUSPENSION AND EXPULSION****

SUSPENSIONS

The District May Only Suspend or Expel a Student for Conduct Related to a District Activity or District Attendance

Pursuant to state law and this policy, no student shall be suspended or expelled for any of the Enumerated Grounds in this policy unless the act is related to a District activity or attendance occurring within a District school or occurring within any other school district.

A student may be suspended or expelled for Enumerated Grounds related to a District 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; and

4. During, or while going to or coming from, a District-sponsored activity.

Students Aiding or Abetting Infliction of Physical Injury – May Not be Expelled

A student who aids or abets, as defined in Penal Code § 31, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, Exception**:** A student 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 on the grounds that the student "caused, attempted to cause, or threatened to cause physical injury to another person" as set forth above.

Discretion of Superintendent and/or Principal

For any student subject to discipline under this policy, the Superintendent and/or principal of the school where the student attends may use his or her discretion to provide alternatives to suspension or expulsion that are both age appropriate and designed to address and correct the student's specific misbehavior as specified in Education Code § 48900.5.

Restrictions on Suspending Students – Other Means of Correction

The District shall only use suspension to correct student behavior when other means of correction have failed to result in proper conduct. The District shall document its attempts to correct the behavior using other means and place the document in the student's record.

Student's With Exceptional Needs – First Offense

Students with exceptional needs, as defined in Education Code § 56026 may only be suspended for a first offense where the Superintendent or the principal of the school determines that student either:

1. Committed one or more of the Enumerated Grounds 1 through 5, or

2. The student's presence causes a danger to others.

Other Means of Correction

The District recognizes the importance of attempting other means of correcting a student's behavior prior to suspending a student. Other means of correction may include but are not limited to:

1. A conference between school personnel, the student's parent or guardian, and the student;

2. Referrals to the appropriate District personnel including a school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling;

3. District 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 student and his or her parents;

4. Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or Section 504 Plan;

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 schoolday on campus;

8. After-school programs that address specific behavioral issues or expose students to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups; and

9. Any of the alternatives described in Education Code § 48900.6.

Community Service on School Grounds During Nonschool Hours - Alternative Disciplinary Action

The principal of a District school, the principal's designee, the Superintendent, or the Board may require a student to perform community service on school grounds either as:

1. Part of any disciplinary action prescribed by this policy; or

2. As an alternative to another disciplinary action.

A student may be assigned to community service off school grounds during nonschool hours if the District obtains the written permission of the student's parent.

Mandated Notification of Law Enforcement Authorities for Specific Acts

This section sets forth the District's responsibilities to report students to law enforcement authorities.

Assault With Deadly Weapon or Use of Force Likely to Produce Great Bodily Harm

If the District believes that the student has committed acts that may violate Penal Code § 245 (assault with deadly weapon or use of force likely to cause great bodily harm) the principal of a District school or the principal's designee shall, before the suspension or expulsion of any student, notify the appropriate law enforcement authorities of [identify the local police or sheriffs with jurisdiction in your district's boundaries].

Enumerated Grounds 3 or 4

If the District believes that the student has committed acts that may violate Enumerated Grounds 3 or 4, the principal or the principal's designee shall, within one (1) school day after suspension or expulsion of any student, notify, by telephone or any other appropriate method, the appropriate law enforcement authorities of [identify local law enforcement].

Possession or Sale of Narcotics or Controlled Substances/ Firearms/Explosives

In addition to the notification requirements for Enumerated Grounds 3 and 4, the District the principal or the principal's designee shall notify the appropriate law enforcement authorities of [identify local law enforcement] of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance, or a violation of Penal Code §§ 626.9 or 626.10

If a student possessed, sold, or furnished a firearm or was found in possession of explosives, as set forth in Education Code §§ 48915(c)(1) or (c)(5), the principal of a school or the principal's designee shall report to the [identify local law enforcement] and [the school security department/the school police department].

No Civil/Criminal Liability For Reporting

Pursuant to state law, a principal, the principal's designee, or any other person reporting a known or suspected act pursuant to this section, is not civilly or criminally liable as a result of making any report 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.

Reporting of Students With Exceptional Needs

The principal or the principal's designee reporting a criminal act committed by a student with exceptional needs shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the student'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. §§ 1232g *et seq*, 1415(k)(6).)

Tobacco Products

Students in the District are prohibited from smoking or use of tobacco products while on campus, while attending school-sponsored activities, or while under the supervision and control of District employees. For purposes of this section, "smoking" and "tobacco product" have the same meaning as set forth in Business and Professions Code §§ 22950.5(c) and (d).

(Ed. Code § 48901.)

Release of Students to Peace Officer - Notification to Parents

When a principal or other District official releases a minor student to a peace officer for the purpose of removing the student from the school premises, the school official shall follow the parental notice and other requirements set forth in Education Code § 48906.

Suspension Rules and Procedures

Restrictions on Days of Suspension

No student in the District shall be suspended for more than 20 school days in any school year, except as provided below.

Exceptions:

The 20 day limit on suspensions may be exceeded for any of the following:

1. If, for purposes of adjustment, a student enrolled in or transfer to another regular school, an opportunity school or class, or a continuation education school or class, the total

number of schooldays for which the student may be suspended shall not exceed 30 days in any school year;

2. When a student has been expelled or suspended for the balance of the semester pursuant to Education Code § 48911(g); and/or

3. Pursuant to Education Code § 48912.

Suspension by Teacher – Class Suspensions

Teachers in the District may suspend any student from their class(es), for any of the Enumerated Grounds 1 through 19 by the following the procedures in this section. The suspension may only be for the day of the suspension and the following day.

Report to Principal

The teacher issuing a suspension must immediately report the suspension to the principal and send the student to the principal for appropriate action.

Supervision of Student

If the principal allows the student to remain on the schoolsite, the student shall be under proper supervision.

Proper supervision shall include: [NOTE - up to your district to specify]

Parent-Teacher Conference

As soon as practicable, the teacher shall schedule and convene a conference with the student's parents to discuss the suspension. The teacher may request the attendance of a school counselor or school psychologist. At the request of either the parent or teacher, a schoolsite or District administrator shall attend the meeting.

Student Attendance During Suspension

Class Suspended From - Only on Concurrence of Teacher and Principal

A student suspended by a teacher shall not be returned to the class from which he/she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

Other Regular Classes

A student suspended from a class shall not be placed in another regular class during the period of suspension. *Exception*: If a student is assigned to more than one class per day, he/she is only

prohibited from attending classes that meet at the same time as the class he/she was suspended from.

Referral to Principal

Nothing in this section prohibits the teacher from referring the student to the principal where the conduct might be grounds for school suspension based on one or more Enumerated Grounds. The teacher and/or principal should ensure that there are no other means for correcting the conduct.

Suspension by Principal or Superintendent ("School Suspensions")

A principal, the principal's designee, or the Superintendent may suspend a student from school for any of the Enumerated Grounds by following the procedures set forth in this section.

Maximum 5-Day Suspension

School Suspensions may not be for more than five consecutive schooldays unless, if a decision on expulsion is pending, the suspension is extended under the procedures in this policy and Education Code § 48911(g) until the Board has made a final decision on the expulsion.

Prior to Suspension – Informal Conference

Attendees

School Suspensions shall be preceded by an informal conference with the student conducted by the principal, the principal's designee, or the Superintendent. As practicable, the informal conference may also include the District staff member who referred the student for suspension.

Due Process Requirements – Notification and Opportunity to Respond

At the informal conference, the District staff conducting the meeting shall inform the student of the following:

1. The reason for the disciplinary action;

2. Any means of correction that were attempted before the suspension; and

3. The evidence against him or her,

Once the student has been informed of the basis for the disciplinary action and the evidence, the student shall be provided with the opportunity to present his or her version and evidence in his or her defense.

"Emergency Situation"- May Suspend Prior to Informal Conference

A School Suspension may be issued without an informal conference only if the principal, the principal's designee, or the Superintendent determines that an emergency situation exists.

To constitute an "Emergency Situation," the principal, the principal's designee, or the Superintendent must determine that the situation constitutes a clear and present danger to the life, safety, or health of students or District personnel.

If the District suspends a student without first holding an informal conference, both the parent and student shall be notified that:

1. The student has the right to an informal conference; and

2. The student has the right to return to school for the purpose of the informal conference.

The informal conference shall be held within two (2) schooldays of the suspension unless the student either:

1. Waives his/her right to the informal conference; or

2. 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 student is physically able to return to school for the conference.

Notification to Parents

At the time of suspension, the District shall make a reasonable effort to contact the student's parent/guardian in person or by telephone. If a student is suspended from school, the parent/guardian shall be provided with written notification of the suspension.

Superintendent Notification

A school employee shall report the suspension of the student, including the cause for the suspension, to the Superintendent.

Parent Conference Regarding Student's Behavior – Following Suspension

Following a suspension, the District, at its discretion, may schedule a conference in order to discuss the student's behavior. Pursuant to Education Code § 48911(f)(1), if the District requests the parent/guardian attend a conference regarding their child's behavior, the parent/guardian is required to respond without delay to the District's request.

The District shall not impose any penalty on a student for failure of the student's parent/guardian to attend a conference with District officials. Reinstatement of the suspended student shall not be contingent upon attendance by the student's parent/guardian at the conference.

Expulsion From School or Suspension For Balance of Semester From Continuation School

[NOTE – you may wish to delete references to "suspension for the balance of the semester from continuation school" if your district does not operate a continuation school.]

In a case where expulsion from school or suspension for the balance of the semester from continuation school is being processed, the Board, the Superintendent, or the Superintendent's designee may make a written determination extending the suspension until the Board renders its decision on expulsion.

An extension may be granted under the following conditions:

1. The District convenes a meeting regarding the student's behavior and the student and his/her parents are invited to participate; and

2. Following the meeting, the Superintendent, or designee, makes a determination 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;

3. If the Student is a foster child, as defined in Education Code § 48853.5, the Superintendent, or designee, including, but not limited to, the Educational Liaison for the District, shall also invite the student's attorney and an appropriate representative of the [county child welfare agency] to participate in the meeting.

4. If the student or his/her parent/guardian has requested a meeting to challenge the original suspension pursuant to Education Code § 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order and may be held in conjunction with the initial parent conference regarding the merits of the suspension.

Principal's Written Designation of Authority to Assist With Discipline

A "principal's designee" is one or more administrators at the schoolsite who have been specifically designated by the principal, in writing, to assist with disciplinary procedures.

In the event that there is not an administrator in addition to the principal at the schoolsite, the principal may specifically designate a certificated person at that schoolsite to assist with disciplinary procedures.

The principal may designate only one (1) person at a time as the principal's "primary designee" for the school year.

The principal may make a written designation of one (1) additional person (administrator or certificated person if no administrator) who may act on disciplinary measures when the principal

or the primary designee are absent. 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.

Supervised Suspensions – In School Suspension

A student suspended by the principal, or designee, may be assigned to a supervised suspension classroom under the following conditions:

1. The suspension was based on Enumerated Grounds 1 through 20;

2. It is determined that the student poses no imminent danger or threat to the campus, students, or District employees; and

3. Expulsion proceedings have not been initiated against the student.

Suspended students assigned to a supervised classroom are responsible for contacting their teachers in order to receive assignments. Teachers are required to provide all assignments and exams.

The parent/guardian must be notified if the student is assigned to a supervised suspension classroom for more than one period.

Suspension by the Board

The Board may suspend a student for any of the Enumerated Grounds for any number of days up to the maximum allowed for each school year pursuant to the requirements in this section.

Closed Session Meeting

When considering whether to suspend a student, the Board shall meet in a closed session if either:

1. A request has been made to hold a closed session meeting; or

2. A public hearing would result in the unlawful disclosure of student information.

Prior to convening a closed session meeting, the Board shall provide the student and the parent/guardian with written notice by registered or certified mail or by personal service, regarding the Board's intention to call a closed session meeting.

The student or parent/guardian has two days (48 hours) from receipt of the Board's notification to make a written request for a public hearing or otherwise the meeting will take place in a closed session.

If the student/parent requests a public meeting, the meeting shall be public except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session.

Board Suspension of Students Attending a Continuation School

[NOTE – only required if your district operates a continuation school.]

The Board may suspend a student attending a continuation school or class for a period not longer than the remainder of the semester for any violation of the Enumerated Grounds.

Completion of Work Missed by a Suspended Student

A District teacher may require a student to complete any assignments or exams they missed during the period that they were suspended.

Meeting With Parents/Guardians on Suspension

The Principal, Superintendent, or either of their designees has the discretion to conduct a meeting with the parent/guardian of any suspended District student as follows:

1. The meeting shall occur within [time frame] of the student being suspended;

2. The parent/guardian shall be provided with written notice of the parent meeting;

3. The parent/guardian shall be informed that they are expected to attend the parent meeting as authorized by Education Code § 48914;

4. As practicable, the student shall be present for some or all of the parent meeting; and

5. The purpose of the meeting shall be to discuss all of the following:

    a. The causes of the suspension;

    b. The duration of the suspension;

    c. Applicable school policy; and

    d. Any other matters that relate to the current suspension.

(Ed. Code § 48914.)

Suspension/Expulsion of Students with Exceptional Needs

Students with exceptional needs may be suspended or expelled pursuant to the requirements of Education Code § 48915.5 and state and federal special education laws. (*See* 20 U.S.C. § 1415(k); 34 C.F.R. §§ 300.530 - 300.537; Ed. Code § 48915.5.) These requirements include but are not limited to:

1. The provision of FAPE, if any, during the suspension or expulsion;

2. Alternative transportation for students excluded from bus transportation; and

3. Requirements for foster children and homeless children

EXPULSION

Expulsion Rules and Procedures

Pursuant to state law and this policy, acts for which a student may be expelled fall into one of the following three (3) categories based upon the level of discretion accorded to the District:

1. Discretionary Expulsions;

2. Expulsion Expected; and

3. Mandatory Expulsions.

These categories are defined as follows:

1. Discretionary Expulsions

The Superintendent or principal has the discretion to recommend for expulsion a student for any of the Enumerated Grounds 1 through 23 that occur at school, at a school activity, or on the way to or from school. Pursuant to this policy, no student shall be recommended for expulsion unless the principal or Superintendent determines that:

a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or

b. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.

2. Expulsion Expected – Unless Determined to Be Inappropriate

The Superintendent, a principal, or another administrator shall recommend expulsion for any of the following acts (a) through (e) occurring at school or a school activity, unless it is determined that the expulsion is inappropriate due to a particular circumstance:

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

b. Possession of any knife, explosive, or other dangerous object of no reasonable use to the student;

c. Possession and/or use of any substance listed in Health and Safety Code, Division Ten, Chapter Two (§11053 *et seq.*). (This does not apply when sale of a substance is involved, *see* "Mandatory Expulsions," below.) Exception: Expulsion shall not be expected if the possession is either:

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

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

d. Robbery or extortion. Ed. Code § 48915(a)(4);

e. Assault or battery, or threat of assault or battery, on a school employee as defined in Penal Code §§ 240 and 342.

(Ed. Code 48915 (a).)

3. Mandatory Expulsions – Immediate Suspension Pending Expulsion

The Superintendent or principal shall immediately suspend, pursuant to this policy, and shall recommend expulsion of a student when he/she determines that the student committed any of the following acts (a) through (e) at school or at a school activity off school grounds:

a. Possessing, selling, or otherwise furnishing a firearm (does not apply to imitation firearms) and the act of possession is verified by a District employee. Exception: This section does not apply, if the student obtains written permission to possess the firearm from both:

   i. A certificated school employee; and

   ii. The principal or the principal's designee.

b. Brandishing a knife at another person;

c. Unlawfully selling a controlled substance listed in Health and Safety Code, Division Ten, Chapter Two (§11053 *et seq.*); (This does not apply to merely possession or use of a substance, *see* "Expulsion Expected," above.)

d. Committing or attempting to commit a sexual assault as defined in Penal Code §§ 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code § 243.4; and

e. Possession of an explosive.

Board Findings Required for Expulsion of Student

Pursuant to law and this policy, when the Board makes a determination that a student committed a specific act, the Board may be required to make additional findings before it may expel the student. Additional findings, if any, relate to the specific acts committed by the student as follows.

1. For Enumerated Grounds 6 -13 and 20-22

After a recommendation is made to the Board, and the Board convenes a hearing, the Board may order that the student be expelled if:

a. The Board determines that the student committed an act listed in Enumerated Grounds 6 through 13 or 20 through 22;

b. The act occurred at school or at a school activity off of school grounds; and

c. The decision to expel is based on the finding of one or both of the following:

i. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or

ii. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.

2. For Acts Listed Under Expected Expulsion or Enumerated Grounds 1-5

After a recommendation is made to the Board, and the Board convenes a hearing, the Board may order that the student be expelled if:

a. The Board determines that the student committed an act either

i. Listed in a through e, above; or

ii. Listed in Enumerated Grounds 1 through 5;

and

b. The decision to expel is based on the finding of one or both of the following:

i. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or

ii. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.

3. For Acts Listed Under Mandatory Expulsion- No Additional Findings Required

After a recommendation is made to the Board, and a hearing has been conducted, the Board may order that the student be expelled if the Board determines that the student committed an act listed under "Mandatory Expulsions" a. through e., above. No other findings are required.

Expulsion Hearing Procedures

No District student shall be expelled without an expulsion hearing consistent with this policy and applicable law.

Timelines for Expulsion Hearings

30 Day Requirement

All expulsion hearing shall be held within 30 schooldays of the date the principal or Superintendent determines that student committed any of the Enumerated Grounds.

Student Requests for Postponements

A student may make a written request to postpone the hearing. Students are entitled to at least one 30-calendar-day postponement. Any additional postponements are at the sole discretion of the Board.

Board Decision

The Board shall decide whether to expel the student within 10 schooldays of the conclusion of the expulsion hearing. The Board shall decide whether to expel the student within 40 schooldays after the student's removal from his or her school if either:

1. The hearing was held by a hearing officer or an administrative panel; or

2. [The Board does not meet on a weekly basis.]

Exception: The Board may extend the time for issuing a decision if the student makes a written request for postponement.

Extension of Hearing Timelines

The District may extend the hearing timelines as follows:

During Regular School Year

The Superintendent, or designee, may extend the time period for holding the expulsion hearing for up to an additional five (5) schooldays when there is good cause that meeting the timeline would be impracticable.

During Summer Recess of Board Meetings- Not to Exceed 20 Calendar Days

If the Board takes summer recess of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. Extensions due to a school recess shall not exceed 20 calendar days. The hearing shall be held within 20 calendar days before the start of the school year. Exception: Student requests in writing that the hearing be postponed.

Reasons for Extensions Included in Hearing Record

When the Board extends the time for conducting the hearing, any reasons for the extension(s) shall be included as a part of the record at the time the expulsion hearing is conducted.

Hearing Shall be Conducted Without Undue Delay

Once an expulsion hearing has commenced, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

Determination By Hearing Officer or Administrative Panel

When the hearing is conducted by a hearing officer or an administrative panel, the office or panel shall provide its determination to the Board within three (3) days of the expulsion hearing.

Written Notice to Student and Parent/Guardian

The District shall provide the student and/or parent/guardian with written notice of the hearing at least 10 calendar days prior to the date of the hearing. The District shall develop a template/sample written notice. The written notice shall contain all of the information required by Education Code § 48918(b).

Hearing May Be Conducted By Board, Hearing Officer, or Administrative Panel

The Board may conduct the expulsion hearing, or, at its sole discretion, assign that responsibility as follows:

1. Contract with the county hearing officer;

2. Contract with the Office of Administrative Hearings for a hearing officer to conduct the hearings; or

3. Appoint an impartial administrative panel of three (3) or more certificated personnel. Panel members may not be Board members or employed at the student's school;

Procedures for Expulsion Hearing by Hearing Officer or Administrative Panel

When the Board does not conduct the hearing, the Hearing Officer or Administrative Panel shall make one the following three (3) determinations, (1) through (3), within three (3) schooldays of the expulsion hearing:

1. *Does Not Recommend Expulsion*

If the Hearing Officer or Administrative Panel does not recommend expulsion, then the expulsion proceedings shall be terminated and the student shall be immediately reinstated and allowed to return to the program from which the expulsion was made unless parent/guardian has requested alternative placement pursuant to Education Code § 48918(e).

2. *Does Not Recommend Expulsion – Student Committed Act Listed Under "Mandatory Expulsion*"

If the Hearing Officer or Administrative Panel determines that the student committed an act listed under "Mandatory Expulsion" but does not recommend expulsion, the following procedures shall be followed:

a. The decision not to recommend expulsion shall be final;

b. The student shall be immediately reinstated; and

c. The District shall determine whether to:

i. Refer the student to his/her prior school; or

ii. Refer student to a continuation school pursuant to Education Code § 48432.5.

3. Recommend Expulsion

If the Hearing Officer or Administrative Panel recommends expulsion, they must prepare and provide to the Board written findings of fact supporting their determination based solely on the evidence from the expulsion hearing.

Board Decision Following Expulsion Hearing

The final determination to expel a student may only be made by the Board at a public meeting based upon either of the following:

1. The Board, after conducting an expulsion hearing, determines that there is substantial evidence relevant to the charges adduced at the expulsion hearing; or

2. If a hearing officer or administrative panel recommends expulsion, the Board may accept the recommendation, and expel the student, based upon either:

    a. A review of the findings of fact and recommendations submitted by the hearing officer or administrative panel; or

    b. A supplementary hearing conducted by the Board pursuant to Education Code § 48918.

Decision to Expel May Not Be Based Solely on Hearsay Evidence

Any decision by the Board to expel a student shall not be based solely on hearsay evidence. Exception: Testimony of a witness may be taken as a sworn declaration or examined only by the Board if the Board determines, based on good cause, 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. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the student.

Technical Rules of Evidence Shall Not Apply to Expulsion Hearing

Technical rules of evidence shall not apply to expulsion hearings. Evidence may be admitted and given probative effect if it is both:

1. Relevant; and

2. The kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

(Ed. Code § 48918(h).)

Prior Conduct of Witness Inadmissible Where Alleging Sexual Assault or Sexual Battery

The District shall not admit evidence regarding the prior sexual conduct of a witness when the expulsion heating is regarding allegations of sexual assault or sexual battery. Exception: Evidence of a witness' prior sexual conduct may be admitted based on the Board's finding of extraordinary circumstances as defined in Education Code § 48918(h)(2).

Board Power to Issue Subpoenas

Prior to Commencement of Hearing

Prior to the commencement of the expulsion hearing, the Board may request subpoenas compelling the attendance of percipient witnesses at the request of either the Superintendent (or designee) or the student.

After Hearing has Commenced

After the hearing has commenced, the Board, hearing officer, or administrative panel may issue a subpoena at the request of the Superintendent (or designee), or the student.

The Board shall issue subpoenas, consider objections to subpoenas, serve process on witnesses, and pay witness fees, if any, in accordance with the requirements of Education Code § 48918(i).

Record of Hearing

The District will make a record of all expulsion hearings. The record may be made by any means, including electronic records, so long as it is accurate, and that a complete written transcription maybe made from the record.

(Ed. Code § 48918(g).)

Written Notice of Board's Decision

The Superintendent shall provide written notice to student and/or parent/guardian whenever the Board decides to either:

1. Expel a student following the hearing; or

2. Suspend the enforcement of an expulsion order during probation.

Witten notices shall comply with Education Code § 48918(j).

Student's Right to Appeal Board Decision

Students may appeal an expulsion to the [identify county] Board of Education.

(Ed. Code §§ 35181, 35291, 35291.5, 48900 *et seq*.)

Expulsion Orders

Expulsion orders shall remain in effect until the Board orders the readmission of the student as follows:

1. Readmission Date: All expulsion orders shall set a date when the student shall be reviewed for readmission;

2. The readmission date may not be later than the last day of the semester following the semester in which the expulsion occurred except as provided in Education Code § 48916;

3. The expulsion order will set forth a rehabilitation plan specific to the student. The plan may provide for periodic review and assessment at the time of readmission. Plans may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

Readmission Procedures

Student and parents/guardians have the right to file a request for readmission in accordance with the following procedures:

1. The parent/guardian shall file a request for readmission with the Superintendent.

2. Following the receipt of a request for readmission, the Superintendent or Superintendent's designee shall convene a review meeting with the parent/guardian. At the review meeting, the parties shall review the student's rehabilitation plan as set forth in the Board's expulsion order. The District representative shall review the student's progress on the rehabilitation plan and allow for parent input. In addition, the District may discuss and review the specific policy and/or legal provisions which student violated.

3. If, based on the review meeting, the District representative believes that the student should be readmitted, then his/her recommendation and supporting findings shall be sent to the [Board or Superintendent].

4. If the [Board or Superintendent] agrees to readmit the student, the District shall notify the student and parent/guardian by registered mail of the decision.

5. If readmission is denied, the District shall provide written notice to the expelled student and parent/guardian including the specific basis for denying re-admittance into the regular program.

Suspended Expulsion – Rehabilitation

After deciding to expel a student, the Board may suspend the enforcement of the expulsion for up to one calendar year and all of the following apply:

1. The student shall be assigned to a school, class, or program the Board believes is appropriate for the rehabilitation of the student;

2. Parents may be asked, but are not required, to participate in the rehabilitation program;

3. Students whose expulsion has been suspended are considered to be on "probation";

4. Probation may be revoked by the Board at any time if the student commits any act listed in the Enumerated Grounds or violates any other rules regarding student conduct; and

5. If probation is revoked due to misconduct, the student may be expelled pursuant to the original expulsion order.

Stipulated Expulsion

A student's parent or guardian may consent to the terms of any proposed expulsion (a "stipulated expulsion"), subject to Board approval, and any such stipulated expulsion may include a waiver of rights to an expulsion hearing.

Educational Program for Expelled Students

When the Board expels a student, it shall ensure that an educational program is provided to the student pursuant to the Education Code.

(Ed. Code § 48916.1)