

## Students

**BP 5144.1 (a)**

### **SUSPENSION AND EXPULSION/DUE PROCESS**

The Board of Education desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

*(cf. 5131 - Conduct)*

*(cf. 5131.1 – Bus Conduct)*

*(cf. 5131.10 – Bullying)*

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

Except when otherwise permitted by law, a student may be suspended or expelled only when ~~his/her~~ *the* behavior is related to a school activity or school attendance occurring within any district school or other school district, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

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

*(cf. 5112.5 - Open/Closed Campus)*

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

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

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

### **Appropriate Use of Suspension and Expulsion**

Except when a student commits an act that violates Education Code 48900(a)-(e), *as listed in items #1-5 under “Grounds for Suspension and Expulsion: Grades K-12” of the accompanying administrative regulation*, or ~~his or her~~ *when the student's* presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. *(Education Code 48900.5, 48900.6)*

**ALVORD UNIFIED SCHOOL DISTRICT**  
**Riverside, California**

## SUSPENSION AND EXPULSION/DUE PROCESS (continued)

*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 5144 – Discipline)*  
*(cf. 6142.4 - Service Learning/Community Service Classes)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6164.5 - Student Success Teams)*

*A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.*

*No student in grades K-5 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)*

~~Except when a student commits an act listed in Education Code 48915(c), the Superintendent or designee shall have the discretion to determine whether to recommend to the Board that the student be expelled.~~

~~*(cf. 5131.7 – Weapons and Dangerous Instruments)*~~

~~To correct the behavior of students who are subject to discipline, the Superintendent or designee, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144–Discipline. (Education Code 48900.5, 48900.6)~~

~~*(cf. 1020 – Youth Services)*  
*(cf. 5138 – Conflict Resolution/Peer Mediation)*  
*(cf. 5144 – Discipline)*  
*(cf. 6142.4 – Service Learning/Community Service Classes)*  
*(cf. 6164.2 – Guidance/Counseling Services)*  
*(cf. 6164.5 – Student Success Teams)*~~

Students shall not be suspended or expelled who are *for truancy, or absenteeism* ~~truant, tardy, or otherwise absent~~ from assigned school activities. (Education Code 48900 (w))

*(cf. 5113 - Absences and Excuses)*  
*(cf. 5113.1 - Chronic Absence and Truancy)*

~~District staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.~~

~~A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal.~~

### ***On-Campus Suspension***

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.*

*Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)*

***Authority to Expel***

*A student may be expelled only by the Board. (Education Code 48918(j))*

*As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)*

- 1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

- 2. Selling or otherwise furnishing a firearm*
- 3. Brandishing a knife at another person*
- 4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058*
- 5. 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*
- 6. Possessing an explosive as defined in 18 USC 921*

*For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of 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*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*A vote to expel a student shall be taken in an open session of a Board meeting.*

*No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 5148.3 - Preschool/Early Childhood Education.*

*(cf. 5148.3 - Preschool/Early Childhood Education)*

**Due Process**

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals, as specified in administrative regulation and law. (Education Code 48911, 48915, 48915.5, 48918)

*(cf. 5119 – Students Expelled from Other Districts)*

*(cf. 5144.2 – Suspension and Expulsion/Due Process [Students with Disabilities])*

**Maintenance and Monitoring of Outcome Data**

*The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USD 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.*

*In presenting the report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.*

*(cf. 0460 - Local Control and Accountability Plan)*

**~~Removal from Class by a Teacher and Parental Attendance~~**

~~When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to~~

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code 48900.1)~~

~~Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the teacher and the student and his/her parents/guardians and to improve classroom behavior.~~

~~Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)~~

~~When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law and that, if there are reasonable factors that may prevent the parent/guardian from complying with the requirement, he/she should contact the school. (Education Code 48900.1)~~

*(cf. 5145.6 – Parental Notifications)*

~~A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)~~

~~At the meeting with the student's parent/guardian, the principal or designee shall explain the district's and school's discipline policies, including the disciplinary strategies that may be used to achieve proper student conduct.~~

~~When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by telephone, mail, or other means that maintains the confidentiality of the student's records.~~

*(cf. 5125 - Student Records)*

~~District regulations and school site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)~~

### **Supervised Suspension Classroom**

~~To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised classroom suspension program which meets the requirements of law. The use of such alternatives does not preclude off campus suspensions.~~



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)~~

**Decision Not to Enforce Expulsion Order**

~~Upon voting to expel a student, the Board may suspend enforcement of the expulsion order pursuant to the requirements of law and administrative regulation. (Education Code 48917)~~

**Maintenance and Monitoring of Outcome Data**

~~The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.~~

~~The report shall be disaggregated by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, and students with disabilities. The report also shall include information about whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan~~

~~(cf. 0460 Local Control and Accountability Plan)~~

**Legal References:****EDUCATION CODE**

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

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 system

48645.5 Readmission; contact with juvenile justice

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

~~230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child~~

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

PENAL CODE

31 Principal of defined crime

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE TITLE 18

921 Definition of firearm

UNITED STATES CODE TITLE 20

1415(K) Placement in alternative educational setting

~~7151 Gun-free schools~~

~~7961 Gun-free schools~~

UNITED STATES CODE TITLE 42

~~11432-11435 Education of homeless children and youth~~

COURT DECISIONS

*T.H. v. San Diego Unified School District* (2004) 122 Ca. App. 4<sup>th</sup> 1267

*Woodbury v. Dempsey* (2003) 108 Cal. App. 4<sup>th</sup> 421

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H.*, (2001) 85 Cal.App.4<sup>th</sup> 1321

*Garcia v. Los Angeles Board of Education* (1991) 123 Cal.App.3d 807

*Fremont Union High School District v. Santa Clara County Board* (1991) 235 Cal. App. 3d 4482 118

*Garcia v. Los Angeles Board of Education* (1991) 123 Cal.App.3d 807

*John A. v. San Bernardino School District* (1982) 33 Cal. 3d 301 308

ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen 85 (1997)

Management Resources:

CSBA PUBLICATIONS

*Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014*

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools: <http://www.ed.gov/about/offices/list/osdfs>

U.S. Department of Education, Office of Safe and Healthy Students: <http://www2.ed.gov/about/offices/list/oese/oshs>

*Policy amended: August 20, 2020*

Policy amended: October 16, 2014

Policy amended: May 16, 2013

Policy amended: August 9, 2012

Policy amended: March 19, 2009

Policy amended: August 11, 2005

Policy amended: September 16, 2004

Policy adopted: June 7, 2001



## **Students**

**AR 5144.1 (a)**

### **SUSPENSION AND EXPULSION/DUE PROCESS**

#### **Definitions**

*Suspension* from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Board of Education for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

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

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

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

*Principal's designee* means any one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

*School property*, for the purposes described in Education Code 48900, includes, but is not limited to electronic files and databases (Education Code 48900[u]).

#### **Notice of Regulations**

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 – Discipline)

(cf. 5145.6 Parental Notifications)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)****Grounds for Suspension and Expulsion: *Grades K-12***

Any student, including a student with disabilities, may be ~~subject to suspension or expulsion~~ *suspended or expelled shall be only those specified as follows and in the sections “Additional Grounds for Suspension and Expulsion: Grades 4-12” and “Additional Grounds for Suspension and Expulsion: Grades 9-12” below:* ~~when it is determined that he/she:~~

*(cf. 5144.2 – Suspension and Expulsion/Due Process (Students with Disabilities))*

1. Caused, attempted to cause or threatened to cause physical injury to another person; ~~or~~ willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900[a] and [t])

~~A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900[t])~~

2. Possessed, sold or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee’s concurrence. (Education Code 48900[b])

*(cf. 5131 – Conduct)*

*(cf. 5131.7 – Weapons and Dangerous Instruments)*

3. Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage or intoxicant of any kind. (Education Code 48900[c])

*(cf. 5131 – Conduct)*

*(cf. 5131.6 – Alcohol and Other Drugs)*

4. Unlawfully offered, arranged or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, 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 same as a controlled substance, alcoholic beverage or intoxicant. (Education Code 48900[d])
5. Committed or attempted to commit robbery or extortion. (Education Code 48900[e])

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

6. Caused or attempted to cause damage to school property or private property. (Education Code 48900[f])
7. Stole or attempted to steal school property or private property. (Education Code 48900[g])
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including, but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel, *except that this* This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900[h])

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900[i])
10. Unlawfully possessed, ~~or unlawfully~~ offered, arranged or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900[j])
11. ~~Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials or other school personnel engaged in the performance of their duties. (Education Code 48900[k])~~ *Knowingly received stolen school property or private property. (Education Code 48900[l])*

(cf. 5131.4 — Student Disturbances)

12. ~~Knowingly received stolen school property or private property. (Education Code 48900[l])~~ *Possessed an imitation firearm (Education Code 48900[m])*

*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])*

13. ~~Possessed an imitation firearm. (Education Code 48900[m])~~ *Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed sexual battery as defined in Penal Code 243.4 (Education Code 48900[n])*

~~Imitation firearms 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])~~

14. ~~Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c,~~

## SUSPENSION AND EXPULSION/DUE PROCESS (continued)

~~286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900[n])~~ *Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900[o])*

15. ~~Harassed, threatened or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900[o])~~ *Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900[p])*
16. ~~Unlawfully offered, arranged to sell, negotiated to sell or sold the prescription drug Soma. (Education Code 48900[p])~~ *Engaged in, or attempted to engage in, hazing (Education Code 48900[q])*

*Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events school-sanctioned events (Education Code 48900[q])*

17. ~~Engaged in, or attempted to engage in, hazing. (Education Code 48900[q])~~ *Engaged in an act of bullying (Education Code 48900[r])*

~~Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900[q])~~

*Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900[r])*

*Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*section “Additional Grounds for Suspension and Expulsion: Grades 4-12,” that has any of the effects described above on a reasonable student.*

*Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.*

*Electronic act means the creation or transmission originated on or off the school site by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication including, but not limited to: (Education Code 48900(r))*

- a. A message, text, sound, video, or image*
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.*

*Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))*

*(cf. 1114 - District-Sponsored Social Media)*

*(cf. 5131.2 - Bullying)*

*(cf. 6163.4 - Student Use of Technology)*

*(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)*

*(cf. 6164.6 - Identification and Education under Section 504)*

- 18. Engaged in an act of bullying. (Education Code 48900 [r])** *Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900[t])*

~~Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student~~



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.~~

~~Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 (items #21-23 below), that has any of the effects described above on a reasonable student.~~

~~Electronic act means the transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 32261)~~

~~Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))~~

~~(cf. 1114—District Sponsored Social Media)~~

~~(cf. 5131.2—Bullying)~~

~~(cf. 6164.4—Identification and Evaluation of Individuals for Special Education)~~

~~(cf. 6164.6—Identification and Education under Section 504)~~

19. ~~Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31. (Education Code 48900(t))~~ *Made terroristic threats against school officials and/or school property (Education Code 48900.7)*

*A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)*

20. ~~Made terrorist threats against school officials and/or school property. (Education Code 48900.7)~~

~~A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be~~



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)~~

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

- ~~21. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)~~

~~Sexual harassment means that conduct, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile or offensive educational environment. (Education Code 212.5, 48900.2)~~

~~(cf. 5145.7 Sexual Harassment)~~

- ~~22. Caused, attempted to cause, threatened to cause or participated in an act of hate violence as defined in Education Code 233. (Education Code 48900.3)~~

~~Hate violence means any act punishable under Penal Code 422.6, 422.7 or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identify, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)~~

~~(cf. 5145.9 Hate Motivated Behavior)~~

- ~~23. Intentionally engaged in harassment, threats or intimidation directed against District personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. (Education Code 48900.4)~~

~~(cf. 5145.3 Nondiscrimination/Harassment)~~

***Additional Grounds for Suspension and Expulsion: Grades 4-12***

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

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

1. *Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)*

*Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)*

*(cf. 5145.7 - Sexual Harassment)*

2. *Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)*

*Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

3. *Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

**Additional Grounds for Suspension and Expulsion: Grades 9-12**

*Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))*

*(cf. 5131.4 - Student Disturbances)*

~~A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any District school under the jurisdiction of the Superintendent or principal or within any other school district, including but not limited to, the following circumstances: (Education Code 48900 [s])~~

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

1. ~~While on school grounds~~
2. ~~While going to or coming from school~~

*(cf. 5131.1—Bus Conduct)*

3. ~~During the lunch period, whether on or off the school campus~~

*(cf. 5112.5—Open/Closed Campus)*

4. ~~During going to or coming from a school-sponsored activity~~

*(cf. 5131.1—Bus Conduct)*

**Removal from Class by a Teacher/Parental Attendance*****Suspension from Class by a Teacher***

A teacher may ~~remove any~~ *suspend a* student from his/her class for the remainder of the day and the following day ~~only~~ for *any of the* acts specified in Education Code 48900 and listed *as items #1-18* under “Grounds for Suspension and Expulsion” above *or for disruption or willful defiance in grades 6-12*. (Education Code 48910)

~~A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)~~

When ~~removing~~ *suspending* a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible after the teacher decides to ~~remove~~ *suspend* the student, the teacher shall ask the student’s parent/guardian to attend a parent-teacher conference regarding the ~~removal~~ *suspension*. A counselor or psychologist ~~should~~ *may* attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student ~~removed~~ *suspended* from class shall not be returned to class during the period of ~~removal~~ *the suspension* without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

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

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

time as the class from which the student was removed *suspended*. (Education Code 48910)

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

~~Pursuant to Board Policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)~~

~~The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.~~

~~The notice shall:~~

- ~~1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date~~
- ~~2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student~~
- ~~3. Direct the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1~~
- ~~4. Direct the parent/guardian to contact the school if there are reasonable factors that would prevent him/her from complying with the attendance requirement~~

### **Suspension by Superintendent, Principal or Principal's Designee**

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

The Superintendent, principal or designee shall immediately suspend any student found at school or at a school activity to ~~be~~ *have committed any of the acts listed in the Board policy under "Authority to Expel" for which a recommendation of expulsion is required.* (Education Code 48915(c))

- ~~1. Possessing, as verified by a District employee, selling or otherwise furnishing a~~

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~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 as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4.~~
5. ~~Possessing an explosive as defined in 18 USC 921.~~

~~In addition, the~~ *The* Superintendent, principal or designee may impose a suspension ~~upon a~~ *for a* first offense if ~~he/she determines~~ *it is determined that* the student violated any of items #1-5 listed in "Grounds for Suspension and Expulsion: *Grades K-12*" above or if the student's presence causes a danger to persons. ~~or property or threatens to disrupt the instructional process.~~ (Education Code 48900.5)

For all other offences, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. ~~in the student.~~ (Education Code 48900.5)

When other means of *correction* ~~correcting a student's behavior~~ are implemented prior to imposing suspension ~~upon the student, including~~ *or* supervised suspension *upon a student*, the Superintendent, principal, or designee shall document the other means of correction used and retain *the documentation* ~~them~~ in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

**Length of Suspension**

The Superintendent, principal, or designee may suspend a student from a school for not more than five consecutive school days. ~~unless the suspension is extended pending expulsion.~~ (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. *However, if a* ~~unless, for purposes of adjustment, the student enrolls in or is transferred to another regular school, an opportunity school, or a continuation school or class~~ *for the purpose of adjustment, the student may be suspended for not more than* ~~in which case suspension shall not~~



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

exceed 30 days in ~~any~~ a school year. The District may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which a student may be suspended in any school year. (Education Code 48903, 48911, 48912)

(cf. 6184 – Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

**Due Process Procedures for Suspension**

Suspensions shall be ~~initiated according to~~ *imposed in accordance with* the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, *including the other means of correction that were attempted before the suspension as required pursuant to Education Code 48900.5*, and the evidence against ~~him/her~~; the student, *and* shall be given the opportunity to present ~~his/her~~ *the student's* version and evidence. ~~in support of his/her defense.~~ (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists ~~An emergency situation involves~~ *involving* a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference *and the* The conference shall be held within two school days, unless the student waives ~~his/her~~ *the* right to it or is physically unable to attend for any reason. In such case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. ~~of the school in which the student is enrolled at the time of the misbehavior.~~ A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may also state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay. Copies of suspension notices shall be forwarded to Director of Student Services.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may *request a meeting* meet with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved and any other pertinent matter. (Education Code 48914)

*If school officials request to meet with* While the parent/guardian, *the notice may state that the law requires the parent/guardian to* is required to respond without delay. *to a request for a conference about a student's behavior,* However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied *reinstatement* readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, *provided the following requirements are followed:* (Education Code 48911)

- a. *The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.*
- b. *The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process (Education Code 48911)*
- c. *If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*(cf. 6173.1 - Education for Foster Youth)*

- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code 18918.1)*

*(cf. 6173 – Education of Homeless Children)*

~~Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)~~

~~If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)~~

*(cf. 6173.1 – Education for Foster Youth)*

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 his/her *the* behavior and keep him/her *the student* in school.

### **Suspension by the Board**

The Board may suspend a student for any of the acts listed in “Grounds for Suspension and Expulsion: *Grades K-12*,” “*Additional Grounds for Suspension and Expulsion: Grades 4-12*,” and “*Additional Grounds for Suspension and Expulsion: Grades 9-12*” above and within the limits specified in “Suspension by Superintendent, Principal or Principal’s Designee” above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester, ~~if any of the acts listed in “Grounds for Suspension and Expulsion” occurred.~~ The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

(cf. 9321 - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

**Supervised Suspension Classroom**  
**On-Campus Suspension**

*A student* Students 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* a supervised suspension classroom 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* supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised *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 his/her *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 a supervised *an on-campus* suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall *may* be made in writing. (Education Code 48911.1)

**Authority to Expel**

~~A student may be expelled only by the Board. (Education Code 48918j)~~

~~The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)~~

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## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

~~The Board may also order a student expelled for any of the acts listed above under “Grounds for Suspension and Expulsion” upon recommendation by the Superintendent, principal, or designee based on either or both of the following finding(s): (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~~

### **Superintendent, Principal, or Designee’s Authority to Recommend Expulsion** *Superintendent or Principal’s Authority to Recommend Expulsion*

Unless the Superintendent *or* principal ~~or designee~~ determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, ~~he/she~~ *the Superintendent or principal* shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

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 Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent *or* principal ~~or designee~~ shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

### **Mandatory Recommendation and Mandatory Expulsion**

The Superintendent *or* principal ~~or designee~~ shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915[c])

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

1. Possessing, as verified by a District employee, selling or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence.

However, possession of an imitation firearm, as defined in Education Code 48900(m), shall not be regarded as an offense requiring a mandatory recommendation for expulsion and mandatory expulsion.

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 as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, 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 shall expel the student. (Education Code 48915)

**Student's Right to Expulsion Hearing**

*Any student recommended for expulsion shall be* entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that *the student has committed the act(s) that form the basis for the expulsion recommendation.* (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918[a])

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918[a])

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918[a])



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918[a])

**Stipulated Expulsion**

After a determination that a student has committed an *expellable* offense, ~~listed above under "Grounds for Suspension and Expulsion" for which expulsion is permitted or mandatory,~~ the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion *or to a suspension of the expulsion under certain conditions*. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her *the* right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

A stipulated expulsion *agreed to by the student and parent/guardian* shall be effective upon approval by the Board.

**Rights of Complaining Witness**

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, ~~he/she~~ *the Superintendent or designee* shall give the complaining witness a copy of the District's suspension and expulsion policy and regulation and shall advise the witness of his/her *the* right to: (Education Code 48918.5)

1. Receive five days' notice of his/her *the* scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present in *at the time* hearing at ~~the time he/she~~ *the witness* testifies
3. Have a closed hearing during the time ~~he/she~~ *the witness* testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)****Written Notice of the Expulsion Hearing**

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918[b])

1. The date and place of the hearing
2. A statement of the specific facts, charges and offense upon which the proposed expulsion is based.
3. A copy of District disciplinary rules which relate to the alleged violation.
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) or (c).

*(cf. 5119 - Students Expelled from Other Districts)*

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

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

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

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

**Additional Notice of Expulsion Hearing for Foster Youth *and Homeless Students***

*If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)*

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**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*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 10 days prior to the hearing. (Education Code 48918.1)*

*Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)*

~~At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code 48853.5 should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)~~

**Conduct of Expulsion Hearing**

1. Closed Session: Notwithstanding ~~the provisions of Government Code 54953 and Education Code 35145~~, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public *to the extent that* ~~unless another student's privacy rights of other students are not~~ would be violated. (Education Code 48918[e] *48918*)

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student and the counsel of the student 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 his/her testimony heard~~ *testify* in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918[c])

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918[g])

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with *Code of Civil Procedure 1985-1985.2 and enforced in accordance with* Government Code 11455.20. (Education Code 48918[i])

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918[i])

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. Education Code 48918[i])

4. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: *Grades K-12,*" "*Additional Grounds for Suspension and Expulsion: Grades 4-12,*" and "*Additional Grounds for Suspension and Expulsion: Grades 9-12*" above. (Education Code 48919[h])

Findings of fact shall be based solely on the evidence at the hearing. ~~While~~ *Although* no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918[f])

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her *the* testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person ~~whom he/she finds~~ *who* is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted according to Penal Code 868.5.
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the District shall provide a non-threatening environment.
  - (1) The District shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
  - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which ~~he/she~~ *the complaining witness* may leave the hearing room.
  - (3) The person conducting the hearing may:
    - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

- (b) Limit the time for taking the testimony of a complaining witness to *normal school hours* ~~the hours he/she is normally in school~~, if there is no good cause to take the testimony during other hours.
  - (c) Permit one of the support persons to accompany the complaining witness to the witness stand.
6. Decision: The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from ~~his/her~~ school ~~of attendance~~, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

**Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. ~~Alternatively, the~~ *The* Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918[d] *48918*)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue its decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918 [a] and [d])

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated *and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by the student's parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made.* ~~The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with District staff, including the student's teachers and with the student's parent/guardian.~~ The decision to not recommend expulsion shall be final. (Education Code 48918[e])

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918[f])

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion. *If the hearing officer or administrative panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code 48917, 48918) for a period of one year.* (Education Code 48917, 48918)

~~The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918[a])~~

**Final Action by the Board**

Whether the expulsion hearing is conducted in closed or ~~public~~ *open* session by the Board, a hearing officer, or an administrative panel or is waived through the signing of a stipulated expulsion agreement, the final action to expel a student shall be taken by the Board ~~at a public meeting.~~ *in public.* (Education Code 48918[j])

*(cf. 9321.1 - Closed Session Actions and Reports)*

*The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.* ~~If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.~~

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the District. For a student expelled for *any* ~~an act listed under~~ "Mandatory Recommendation and Mandatory Expulsion" *act listed in the section "Authority to Expel" in the accompanying Board policy, above,* this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

1. Periodic review as well as assessment of the student at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessment, job training, counseling, employment, community service or other rehabilitative programs

With parental/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Prior to taking final action to expel a student the Board may choose to meet with the parent/guardian and student whose expulsion case is before them if the parent/guardian so requests. The request to meet with the Board must be received in the Student Services office no later than 4:30 p.m. on the Tuesday preceding the Thursday Board meeting. If the Board meets on a day other than Thursday, the request must be received at least 48 hours in advance of the meeting. Parents who arrive late for their appointment with the Board may forfeit their opportunity to meet with the Board.

During the meeting the parent/guardian and/or student may only speak to the information presented in the hearing. The decision to expel must be based solely on the Findings of Fact prepared by the Hearing Panel. New evidence or information may not be introduced. The Board, after a review of the written record, may ask clarifying questions that pertain to the information presented to the Hearing Panel. No new witness testimony may be taken by the Board.

**Written Notice to Expel**

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: *Grades K-12,*" "*Additional Grounds for Suspension and Expulsion: Grades 4-12,*" or "*Additional Grounds for Suspension and Expulsion: Grades 9-12*". (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian. (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education. (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion. (Education Code 48918)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1. (Education Code 48918)

**Decision Not to Enforce Expulsion Order**

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

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and ~~his/her~~ willingness to follow a rehabilitation program

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: *Grades K-12,*" "*Additional Grounds for Suspension and Expulsion: Grades 4-12,*" or "*Additional Grounds for Suspension and Expulsion: Grades 9-12*" above or violates any of the District's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a District school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the time of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915(b). (Education Code 48918[j])

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education. (Education Code 48917[e] *48917*)

**Right to Appeal*****Appeal***

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation. (Education Code 48919)

*If the* The student shall submit a written request for a copy of the written transcripts and supporting documents from the District simultaneously with the filing of the notice of appeal with the County Board. *The* the District shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

**Notification to Law Enforcement Authorities**

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, *or of any student acts involving* ~~In addition, law enforcement authorities shall be notified regarding any acts by students or nonstudents regarding~~ the possession, sale, or ~~furnishment~~ *furnishing* of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

**Post-Expulsion Placements*****Placement During Expulsion***

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 41915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems.
2. Not provided at a comprehensive middle, junior or senior high school or at any elementary school, unless the program is offered at a community day school established at ~~such a site~~ *any of these*
3. Not housed at the school site attended by the student at the time of suspension

*(cf. 6158 – Independent Study)*

*(cf. 6185 - Community Day School)*

When the placement described above is not available, and when the County Superintendent so certifies, students expelled for *only* acts described in items ~~#6 through #13~~ *#6-12 under “Grounds for Suspension and Expulsion: Grade K-12: and items #1-3 under “Additional Grounds for Suspension and Expulsion: Grades 4-12” above may be* and ~~#20 through #22 under “Grounds for Suspension and Expulsion” above may be~~ instead referred to a program of study that is provided at another comprehensive middle, junior or senior high school, or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

**Readmission After Expulsion**

*Prior to the date set by the Board for the student’s readmission:* ~~Readmission procedures shall be as follows:~~

1. ~~On the date set by the Board when it ordered the expulsion, the District shall consider readmission of the student. (Education Code 48916)~~ *The Superintendent or designee shall hold a conference with the parent/guardian and student. At the conference, the student’s rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/Guadiana shall be asked to indicate in writing their willingness to comply with these regulations.*
2. ~~The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student’s rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.~~ *The Superintendent*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*or designee shall transmit to the Board a recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.*

3. ~~The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073–49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.~~ *If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.*
4. ~~If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.~~ *The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)*
5. ~~The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other District students or employees. (Education Code 48916)~~ *If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.*
6. ~~If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)~~ *The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. The notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)*
7. ~~The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)~~



**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

**Maintenance of Records**

The District shall maintain a record of each suspension and expulsion, including the specific cause(s) ~~of the expulsion~~ (Education Code 48900.8).

~~The expulsion record~~ *Expulsion records of any student* shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting *that* school. (Education Code 48918[k])

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this District. (Education Code 48915.1)

*(cf. 5119 - Students Expelled from Other Districts)*

**Waiver of Administrative Expulsion Hearing; Process and Procedures**

Under the California Education Code, all students recommended for expulsion are entitled to an impartial hearing. The Education Code also governs the timeline of steps taken to consider a recommendation for expulsion. The Alvord Unified School District respects and complies with this timeline and fact finding requirements prescribed in the California Education Code.

In certain expulsion cases, students and their parents/guardians may wish to expedite the expulsion process by waiving their right to an administrative expulsion hearing and the timelines governing the expulsion process, and instead develop a mutual agreement with the District concerning expulsion. This process is known as a "Waiver of Administrative Expulsion Hearing" and can be used in cases where students and their parents/guardians do not contest the allegations or the recommendation for expulsion. Reaching a mutual agreement concerning expulsion enables students, parents, and District personnel to save time, effort, expense, and delays typical in a hearing process.

All of the following must occur for a Waiver of Administrative Expulsion Hearing to be considered:

1. The student and ~~his/her~~ parent/guardian must admit that the student has committed an act that constitutes grounds for expulsion;
2. The principal and the Superintendent's designee believe a Waiver of Administrative Expulsion Hearing is in the best interest of the student;

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

3. The parent/guardian and principal agree that it is unnecessary to convene an administrative hearing panel to make a recommendation to the Board to expel; and;
4. The parent/guardian voluntarily agrees to a proposed expulsion order known as a Waiver of Administrative Expulsion Hearing Agreement that will be presented to the District's Board of Education for action.

The Waiver of Administrative Expulsion Hearing process shall be initiated according to the following procedures:

1. Site Administrator Review: Prior to the meeting to consider the extension of suspension pursuant to Education Code 48911(g), the site administrator shall prepare the recommendation for expulsion documentation. Where appropriate, the site administrator shall consider the Waiver of Administrative Expulsion Hearing option and indicate the reasons a Waiver of Administrative Expulsion Hearing should be considered at the extension of suspension meeting.

The recommendation for expulsion and the approval to consider a Waiver of Administrative Expulsion Hearing option shall be provided to the Director of Student Services or designee prior to the beginning of the extension of suspension meeting held in accordance with Education Code 48911(g).

In recommendations for expulsion where an extension of suspension meeting is not warranted or applicable, the site administrator will make their recommendation for a Waiver of Administrative Expulsion Hearing to the Director of Student Services within the time frame of the suspension.

2. Extension of Suspension Meeting: If the Director of Student Services determines there is cause to extend the student's suspension and schedule an expulsion hearing, the Director or designee may offer and explain the Waiver of Administrative Expulsion Hearing option to the parent/guardian and student during the extension of suspension meeting.

The Director of Student Services or designee shall discuss and clarify the Waiver of Administrative Expulsion Hearing process option. In addition to an oral explanation of the process, which shall include a review of the student's rights regarding expulsion, the Director of Student Services or designee shall provide the parent/guardian and the student with the following documents:

1. Documentation pertaining to the expulsion recommendation, including a Waiver of Administrative Expulsion Hearing Agreement; and
2. A memorandum from the Director of Student Services explaining the Waiver of

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

Administrative Expulsion Hearing option.

3. Waiver of Administrative Expulsion Hearing Agreement: Any Waiver of Administrative Expulsion Hearing Agreement (“Agreement”) entered into between the District, the parent/guardian and student shall contain the following elements:
  1. A description of the alleged misconduct.
  2. An admission by the student of the misconduct.
  3. Voluntary consent to the expulsion by the parent and student.
  4. Acknowledgement that the student and parent have received and understand their rights under the Education Code, and that they have been explained to them by the District, and that they understand the consequences of an expulsion order.
  5. A waiver of the statutory and constitutional right to a formal hearing.
  6. A waiver of the statutory right to appeal the District’s decision to the County Board of Education.
  7. A waiver of the right to all notices and timelines required by statute, rule or regulations.
  8. A waiver of the right to be represented by legal counsel or a non-attorney advisor at such expulsion hearing.
  9. A waiver of the right to inspect and obtain copies of documents which would have been used at the hearing and which will be presented to the District's Board of Education as part of its review of the expulsion recommendation and final action.
  10. A waiver of the right to confront and question all witnesses who would have testified at the hearing.
  11. A waiver of the right to question all other evidence presented which would have been presented at the hearing and which will be presented to the District's Board of Education as part of its review of the expulsion recommendation and final action
  12. A waiver of the right to present oral and documentary evidence on the student's behalf including witnesses.

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

13. Identification of the duration of the expulsion and the student's educational placement during the expulsion.
  14. Presentation of the Agreement, and an explanation of rights, in the parent's native language.
  15. Acknowledgment that the parent had sufficient time to consult with legal counsel if he or she so desired.
  16. Acknowledgment that if the student or parent challenges the Agreement or does not abide by its terms, the District may immediately proceed with the expulsion hearing process provided in the Education Code, and that the student must stay in his/her current placement pending the outcome.
4. Revocation of Waiver of Administrative Expulsion Hearing Agreement: If a Waiver of Administrative Expulsion Hearing Agreement is signed at either the extension of suspension meeting convened pursuant to Paragraph 2, or in any due process meeting convened for the student, Parent will notify the Director of Student Services in writing no later than three (3) subsequent school days if they wish to revoke the Agreement and proceed with an expulsion hearing in front of an administrative hearing panel.
  5. Board Approval: If all parties agree in writing to a Waiver of Administrative Expulsion Hearing Agreement, the recommendation for expulsion will be presented in writing to the Board of Education for review and action in the same manner as any other hearing panel recommendations.

The Director of Student Services shall prepare and submit the Waiver of Administrative Expulsion Hearing Agreement as an item for Board Action. The Board shall act on the Board item as a recommendation for expulsion in accordance with the terms of the Agreement.

Should the Board accept the Waiver of Administrative Expulsion Hearing Agreement, the student shall be expelled and placed in the school or program set forth in the Agreement.

Once the Board has taken action to accept the Waiver of Administrative Expulsion Hearing Agreement, there shall be no right to a parent/guardian or student to appeal the Board's decision to the County Board of Education.

Following Board action to accept a Waiver of Administrative Expulsion Hearing Agreement, written notice of the acceptance of the Agreement shall be sent by the Superintendent or his or her designee to the pupil or the pupil's parent/guardian and shall be accompanied by:

1. Confirmation of the education alternative placement to be provided to the pupil during the time of expulsion; and

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

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

Should the Board vote to reject a Waiver of Administrative Expulsion Hearing Agreement, an administrative hearing will be scheduled within 30 school days and the parent/guardian and student will receive all due process protections delineated in Education Code 48900 et. seq.

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