

Board Policy

BP 5144.1

Students

Suspension And Expulsion/Due Process

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

(cf. 5144 - Discipline)

Note: The following optional paragraph excludes suspended or expelled students' participation in extracurricular activities.

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

(cf. 6145 - Extracurricular and Cocurricular Activities)

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

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

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

Zero Tolerance

***Note: Although the term "zero tolerance" does not appear in law, the federal Gun-Free Schools Act (20 USC 7151) requires a district to expel for one year a student who brings a firearm to school. This requirement has commonly been labeled as "zero tolerance." Education Code 48915(c) also requires the mandatory suspension and recommendation for expulsion of students who possess, sell or furnish a firearm, brandish a knife, sell a controlled substance, commit or attempt to commit a sexual assault or sexual battery, or possess an explosive. ***

***Note: The extent to which a district can develop policies mandating a recommendation for expulsion beyond those specified in the Education Code is unclear. In T.H. v. San Diego Unified School District, a court upheld a district's zero tolerance policy that went beyond the requirements for "mandatory recommendation" for expulsion in Education Code 48915(c) because the policy did not interfere with a student's statutory right for due process or conflict with the Education Code. ***

Note: The following optional section provides general language in support of zero tolerance as authorized by California law. Districts that wish to expand the policy to include zero tolerance for offenses beyond those in law should modify the following paragraph to specify grade levels to which the zero tolerance policy applies and the specific offenses which result in suspension and expulsion, beyond those for which the law requires suspension and expulsion. It is also recommended that such districts notify parents/guardians and students about the district's policy. Such districts should also consult legal counsel as appropriate.

The Board supports a zero tolerance approach to serious offenses in accordance with state and federal law. This approach makes the removal of potentially dangerous students from the classroom a top priority and ensures the standardized treatment of all students. Staff shall immediately report to the Superintendent or designee any incidence of offenses specified in law, Board policy, and administrative regulation as cause for suspension or expulsion.

Student Due Process

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

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities))

Supervised Suspension Classroom

***Note: As an alternative to off-campus suspension, Education Code 48911.1 authorizes a supervised suspension classroom program for students who pose no imminent danger or who have not been recommended for expulsion, as specified below. Education Code 48911.2 states that if the number of students suspended during the past year exceeds 30 percent of the school's enrollment, the district should consider implementing this program and/or another program of on-campus progressive discipline. ***

Note: The following optional section is for use by districts implementing a supervised suspension classroom program; such districts may continue to claim apportionments for students so assigned, provided they meet specific criteria which are set forth in the accompanying administrative regulation.

The Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours when they are off campus and may fall behind in the coursework. The Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.

The Superintendent or designee shall establish a supervised classroom suspension program which meets the requirements of law for students suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, who pose no imminent danger or threat at school, and for whom an expulsion action has not been initiated.

Note: Pursuant to Education Code 48911.2, schools may implement, in place of or in addition to the supervised suspension classroom program of Education Code 48911.1, programs involving progressive discipline using conferences, detention, student success teams, and/or referral to school support service staff.

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

Required Parental Attendance

Note: AB 2855 (Ch. 895, Statutes of 2004) amended Education Code 48900.1 to no longer mandate the Board to adopt a policy on required parental attendance. However, Education Code 48900.1, as amended, provides that if the Board chooses to adopt such a policy, it must contain the components specified in the paragraphs below.

Note: The following section is optional and should be deleted by districts that do not require parental attendance.

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

Whenever a student is suspended from class by a teacher because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities, or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a

school day in the class from which the student was suspended. (Education Code 48900.1)

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

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

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is pursuant to law. (Education Code 48900.1)

Note: Education Code 48900.1 requires that the notice specify when the parent/guardian must attend the class. The attendance may be either on the day the student is scheduled to return or within a "reasonable period of time," as specified in the district's policy. The following paragraph establishes a one-week deadline for the parent/guardian's attendance. This deadline may be modified to reflect district practice.

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.

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)

Note: Pursuant to Education Code 48900.1, the Board's policy must include procedures for contacting parents/guardians who do not respond to the request to attend and also take into account reasonable factors that may prevent the parent/guardian's compliance with a notice to attend. The following paragraph should be revised to reflect district practice.

The principal or designee shall contact a parent/guardian who does not respond to the request to attend school. The Board recognizes that parent/guardian compliance with this policy may be delayed, modified, or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

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)

Decision Not to Enforce Expulsion Order

Note: Pursuant to Education Code 48917, a Board may decide to suspend the enforcement of an order for expulsion if the student satisfies specific conditions. See the accompanying administrative regulation for criteria. In addition, the Attorney General opined in 80 Ops.Cal.Atty.Gen. 85 (1997) that a Board may suspend the enforcement of an expulsion, even in those cases where the student has committed an offense for which expulsion must be ordered by law. Legal counsel should be consulted where appropriate.

Note: Option 1 below is for use by Boards that choose not to suspend the enforcement of an order for expulsion in cases where the student has committed an offense for which expulsion is mandatory pursuant to Education Code 48915(c). Option 2 is for use by Boards that, on a case-by-case basis, may determine that an order for expulsion be suspended for any type of offense.

OPTION 1: In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law.

OPTION 2: On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

1981 Enrollment of students in community school

17292.5 Program for expelled students

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48667 Community day schools

48900-48927 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

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

PENAL CODE

31 Principal of a crime, defined

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

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 Definitions, firearm

UNITED STATES CODE, TITLE 20

7151 Gun free schools

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County

Board of Education and Kenneth H., (2001) 85 Cal.App.4th 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 1182

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

ATTORNEY GENERAL OPINIONS

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

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

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

Management Resources:

WEB SITES

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

California Attorney General's Office: <http://www.caag.state.ca.us>

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

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

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**Gravenstein Union School District
Sebastopol, California**