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5144.1 BP - Suspension and Expulsion/Due Process

Students

Board Policy No. 5144.1

Policy Adopted: February 5, 2015

Policy Revised: February 8, 2024

SUSPENSION AND EXPULSION/DUE PROCESS

The Governing Board 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.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be only those 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 the behavior is related to a school activity or school attendance occurring within any

district school or another 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
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.

Appropriate Use of Suspension Authority

Except when a student's act 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 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)

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-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

On-Campus Suspension

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

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, 287, 288, or 289, or former 288a, 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

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

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled except under limited circumstances as specified in AR 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 law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

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 USC 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.

Policy Reference Disclaimer:

These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the policy.

State Code

Civ. Code 47, Privileged communication

Civ. Code 48.8, Defamation liability

Code of Civil Procedure 1985-1997, Production of evidence; means of production

Education Code

Ed. Code 17292.5, Program for expelled students; facilities

Ed. Code 1981-1983, Enrollment of students in community school

Ed. Code 212.5, Sexual harassment

Ed. Code 233, Hate violence

Ed. Code 32260-32262, Interagency School Safety Demonstration Act of 1985

Ed. Code 35145, Open board meetings

Ed. Code 35146, Closed sessions regarding suspensions

Ed. Code 35291, Rules for government and discipline of schools

Ed. Code 35291.5, Rules and procedures on school discipline

Ed. Code 48645.5, Former juvenile court school students; enrollment

Ed. Code 48660-48666, Community day schools

Ed. Code 48853-48853.5, Foster youth

Ed. Code 48900-48927, Suspension and expulsion

Ed. Code 48950, Speech and other communication

Ed. Code 48980, Parent/Guardian notifications

Ed. Code 49073-49079, Privacy of student records

Ed. Code 52052, Numerically significant student subgroups

Ed. Code 52060-52077, Local control and accountability plan

Ed. Code 64000-64001, Consolidated application

Ed. Code 8489-8489.1, Prohibition against expulsion of preschool student

Government Code

Gov. Code 11455.20, Informal hearing procedures

Gov. Code 54950-54963, The Ralph M. Brown Act

H&S Code 11014.5, Drug paraphernalia

H&S Code 11053-11059, Controlled substances; standards and schedules

Lab. Code 230.7, Employee time off to appear in school on behalf of a child

Pen. Code 240, Assault defined

Pen. Code 241.2, Assault fines

Pen. Code 242, Battery defined

Pen. Code 243.2, Battery on school property

Pen. Code 243.4, Sexual battery

Pen. Code 245, Assault with deadly weapon

Pen. Code 245.6, Hazing

Pen. Code 261, Rape defined

Pen. Code 266c, Unlawful sexual intercourse

Pen. Code 286, Sodomy defined

Pen. Code 287, Oral Copulation

Pen. Code 288, Lewd or lascivious acts with child under age 14

Pen. Code 289, Penetration of genital or anal openings

Pen. Code 31, Principal of a crime; defined

Pen. Code 417.27, Laser pointers

Pen. Code 422.55, Definition of hate crime

Pen. Code 422.6, Crimes; harassment

Pen. Code 422.7, Aggravating factors for punishment

Pen. Code 422.75, Enhanced penalties for hate crimes

Pen. Code 626.10, Dirks, daggers, knives, razors, or stun guns

Pen. Code 626.2, Entry upon campus after written notice of suspension or dismissal without permission

Pen. Code 626.9, Gun-Free School Zone Act of 1995

Pen. Code 868.5, Supporting person; attendance during testimony of witness

W&I Code 224.1, Indian child; definition

W&I Code 729.6, Counseling

Federal Code

18 USC 921, Definitions; firearms and ammunition

20 USC 1415(K), Students with disabilities; placement in alternative educational setting

20 USC 7961, Gun-Free Schools Act

42 USC 11431-11435, Education of homeless children and youths

Management Resources

Attorney General Opinion, 80 Ops.Cal.Atty.Gen. 348 (1997)

Attorney General Opinion, 80 Ops.Cal.Atty.Gen. 85 (1997)

Attorney General Opinion, 80 Ops.Cal.Atty.Gen. 91 (1997)

Attorney General Opinion, 84 Ops.Cal.Atty.Gen. 146 (2001)

Court Decision, Board of Education of Sacramento City Unified School District v. Sacramento County

Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Court Decision, Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

Court Decision, Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807

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

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

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

U.S. DOE, Office for Civil Rights Publication, Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

Website, CSBA District and County Office of Education Legal Services

Website, U.S. Department of Education, Office of Safe and Healthy Students

Website, California Attorney General's Office

Website, California Department of Education

Website, CSBA

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

Cross References

0450, Comprehensive Safety Plan

0450, Comprehensive Safety Plan

0460, Local Control And Accountability Plan

0460, Local Control And Accountability Plan

1114, District-Sponsored Social Media

1114, District-Sponsored Social Media

1312.3, Uniform Complaint Procedures

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1312.3-E(1), Uniform Complaint Procedures

1312.3-E(2), Uniform Complaint Procedures

1313, Civility

3513.3, Tobacco-Free Schools

3513.3, Tobacco-Free Schools

3513.4, Drug And Alcohol Free Schools

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3515.21, Unmanned Aircraft Systems (Drones)

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3515.31, School Resource Officers

3515.4, Recovery For Property Loss Or Damage

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5112.5, Open/Closed Campus

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5145.6, Parent/Guardian Notifications

5145.6-E(1), Parent/Guardian Notifications

5145.7, Sexual Harassment

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5145.71, Title IX Sexual Harassment Complaint Procedures

5145.71-E(1), Title IX Sexual Harassment Complaint Procedures

5145.9, Hate-Motivated Behavior

5148.3, Preschool/Early Childhood Education

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6163.4, Student Use Of Technology

6163.4-E(1), Student Use Of Technology

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6173-E(1), Education For Homeless Children

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6173.4, Education For American Indian Students

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