

Students

SUSPENSION AND EXPULSION/DUE PROCESS

BP 5144.1 (a)

The Board of Trustees 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. 5131.2 - Bullying)

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, and the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her 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's ~~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 when or his/her 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)**

(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.

~~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 any student who is subject to discipline, the Superintendent or designee shall, 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 for truancy, tardiness, or absenteeism from assigned school activities.

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

~~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

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

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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 under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," 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.

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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.

(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 law and administrative regulation. (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))

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 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 the student's 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~~

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~~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 any method 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)~~

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~~ maintain outcome data **related to student suspensions and expulsions in accordance with** ~~which the district is required to collect pursuant to~~ 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 ~~The report shall be~~ 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**. ~~The report also shall include information about~~ **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)~~

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Legal Reference:

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

48645.5 Readmission; contact with juvenile justice system

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

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

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 e~~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

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Legal Reference, continued:

PENAL CODE, continued

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 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7151 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

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

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

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

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)

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Legal Reference, continued:

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

adopted: January 8, 2008

revised: August 19, 2014

revised: _____

SAN JACINTO UNIFIED SCHOOL DISTRICT

San Jacinto, California