

STUDENTS – SUSPENSION AND EXPULSION/DUE PROCESSDefinitions

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 Section 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 Trustees 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 Section 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 Section 48925)

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

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

Student includes a student's parent/guardian or legal counsel. (Education Code Section 48925)

Principal's designee means 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 Section 48911)

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

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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 Sections 48900.1, 48980) (cf. 5144 – Discipline) (cf. 5145.6 – Parental Notifications)

Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that the student:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense. (Education Code Section 48900(a))

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 Section 48900(a) once the student 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 Section 48900(s))

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 Section 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 Section 48900(c)) (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 intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as controlled substance, alcoholic beverage, or intoxicant. (Education Code Section 48900(d))
5. Committed or attempted to commit robbery or extortion. (Education Code Section 48900(e))
6. Caused or attempted to cause damage to school property or private property. (Education Code Section 48900(f))

7. Stole or attempted to steal school property or private property. (Education Code Section 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. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code Section 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code Section 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 Section 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 Section 48900(k))
12. Knowingly received stolen school property or private property. (Education Code Section 48900(l))
13. Possess an imitation firearm, i.e., 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 Section 48900(m))
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code Section 48900(n))
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 Section 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code Section 48900(p))
17. Unlawfully offered, arranged to sell, negotiated to sell, or sold steroids or other performance-enhancing substances (Education Code Section 49030-49033)
18. Engaged in, or attempted to engage in, hazing as defined in Education Code 32050. (Education Code Section 48900(q))

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19. Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act. (Education Code Section 48900(r))
20. Made terrorist threats against school officials and/or school property. (Education Code Section 48900.7)

A student in grades four through twelve 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 Section 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 Section 233 (Education Code Section 48900.3) (cf. 5145.9 – Hate-Motivated Behavior)
23. 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 class work, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code Section 48900.4) (cf. 5145.3 – Nondiscrimination/Harassment)

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 Section 48900)

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.

The Superintendent or principal may use discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code Section 48900(r)) (cf. 5138 – Conflict Resolution/Peer Mediation)

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities. (cf. 5113 – Absences and Excuses) (cf. 5113.1 – Truancy)

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in “Grounds for Suspension and Expulsion.” (Education Code Section 48910)

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

When removing a student from 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. The student shall be appropriately supervised during the class periods from which the student has been removed. (Education Code Section 48910)

As soon as possible, the teacher shall ask the student’s parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist 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 Section 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code Section 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, the student may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code Section 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code Section 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 the parent/guardian 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 Section 48900.1)

Suspension by Superintendent, Principal or Principal’s Designee

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

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The Superintendent or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code Section 48915)

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 item from a certificated school employee, with the principal or designee's concurrence.
2. Brandishing a knife, as defined in Education Code Section 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 or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion."
5. Possession of an explosive as defined in 18USC 921.

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines that the student violated items #1 – #5 listed in "Grounds for Suspension and Expulsion" or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code section 48900.5)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code Sections 48903, 48911, 48912)

The Superintendent or designee may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code Section 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the principal, designee, or the Superintendent 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 and the evidence against the student; the student shall be given the opportunity to present the student's version and evidence in support of the student's defense. (Education Code Section 48911)

This conference may be omitted if the principal, designee, or the Superintendent determines that an emergency situation exists. An emergency situation involves 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. The conference shall be held within two school days, unless the student waives the right to the conference 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 Section 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.
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 Section 48911)

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

In addition, the notice may 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 the State law requiring the parent/guardian to respond to such requests without delay.

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

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, 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 readmission solely because the parent/guardian failed to attend. (Education Code Section 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. (Education Code Section 48911(g))

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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 Section 48911)

Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" and within the limits specified in "Suspension by Superintendent, Principal, or Principal's Designee." (Education Code Section 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 Section 48915. (Education Code Section 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 disclosure of information violating a student's right to privacy under Education Code Sections 49073-49079. (Education Code Sections 35146, 48912)

The Board shall provide the student and the student's parent/guardian with written notice of the closed session by certified mail. 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 Sections 35146, 48912)

Authority to Expel

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion."

The Board may also order a student expelled for any of the acts listed under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer, or administrative panel, 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.

Mandatory Recommendation for Expulsion

Unless the principal, Superintendent, or designee finds that expulsion is inappropriate due to particular circumstances, the principal, or the Superintendent, or designee shall recommend a student's expulsion for any of the following acts: (Education Code Section 48915(a))

1. Causing serious physical injury to another person, except in self-defense.
2. Possession of any knife as defined in Education Code Section 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 the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis.
4. Robbery or extortion.
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee.

Mandatory Recommendation and Mandatory Expulsion

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

1. Possessing, as verified by a District employee, or selling or otherwise furnishing a 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 Section 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 or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion."
5. Possessing an explosive as defined in 18 USC 921.

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Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code Section 48915)

Student's Right to Expulsion Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code Section 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 Section 48918(a))

If the Board finds it impractical during the 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 Section 48918(a))

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

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 Section 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, 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 the following rights: (Education Code Section 48918.5)

1. The complaining witness must receive five days' notice of scheduled testimony at the hearing.
2. The complaining witness may choose up to two adult support persons to be present in the hearing at the time of testimony.
3. The complaining witness may have a closed hearing during the time of testimony.

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 Section 48918.5)

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 ten calendar days before the date of the hearing. The notice shall include: (Education Code Sections 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 Section 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 Section 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 non-attorney 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.

Non-attorney 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.

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code Section 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

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in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code Section 48918(c))

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 Section 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 testimony heard 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 Section 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 Section 48918(g))
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 Government Code 11455.20 (Education Code Section 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 Section 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 Section 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 Section 48900 and listed in "Grounds for Suspension and Expulsion." (Education Code Section 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. While 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 Section 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 Sections 48918, 48918.5)
 - 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 the complaining witness's 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 the person presiding finds 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.

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- (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 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.
 - (b) Limit the time for taking the testimony of a complaining witness to the hours the complaining witness is normally in school, if there is not 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 Within Ten School Days: The Board’s decision on whether to expel a student shall be made within ten school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code Section 48918(a))
7. Decision Within 40 School Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from the student’s school of attendance, unless the student requests in writing that the decision be postponed. (Education Code Section 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 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 Section 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified in “Conduct of Expulsion Hearing.” (Education Code Section 48918(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 student shall be immediately reinstated. 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. (Education Code Section 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 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 Section 48918(f))

In accordance with Board Policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code Section 48917)

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 Section 48918(a))

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code Section 48918(j)) (cf. 9321.1 – Closed Session Actions and Reports)

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 an act listed under "Mandatory Recommendation and Mandatory Expulsion," 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 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 Section 48916)

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

1. Periodic review, as well as assessment of the student, at the time of review for readmission.

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2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, and other rehabilitative programs.

With parent/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 Section 48916.5)

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 in Education Code Sections 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915. (Education Code Section 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and the student's parent/guardian. (Education Code Section 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education. (Education Code Section 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion. (Education Code Section 48918)
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 Section 48915.1. (Education Code Section 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 willingness to follow a rehabilitation program.

The suspension of the enforcement of an expulsion shall be governed by the following: (Education Code Section 48917)

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.
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status.
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" or violates any of the District's rules and regulations governing student conduct.
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.
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.
6. 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.
7. The Superintendent or designee shall send written notice of any decision to suspend the 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 of Education. (Education Code Section 48918(j))

Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board of Education. 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 Section 48919)

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 of Education. The District shall provide the student with these documents within ten school days following the student's written request. (Education Code Section 48919)

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Notifications 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 Section 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 possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code Section 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 Section 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code Section 48902)

Post-Expulsion Placements

The Board shall refer expelled students to a program of study that is: (Education Code Sections 48915, 48915.01)

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.
3. Not housed at the school site attended by the student at the time of suspension. (cf. 6185 – Community Day School)

Readmission After Expulsion

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 Section 48916)
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.

3. The Superintendent or designee shall transmit to the Board the Superintendent's recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code Sections 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
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.
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 Section 48916)
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 Section 48916)
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying re-admittance 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 Section 48916)

Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record 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 school. (Education Code Sections 48900.8, 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 Section 48915.1) (cf. 5119 – Students Expelled from Other Districts)

Outcome Data

The Superintendent or designee shall maintain the following data: (Education Code Sections 48900.8, 48916.1)

1. The number of students recommended for expulsion.
2. The specific grounds for each recommended expulsion.

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3. Whether the student was subsequently expelled.
4. Whether the expulsion order was suspended.
5. The type of referral made after the expulsion.
6. The disposition of the student after the end of the expulsion period.

References: Education Code Sections 212.5, 1981, 17292.5, 32050, 35146, 35291, 35291.5, 48660-48667, 48900-48927, 49030-49033, 48950, 49073-49079, 51260-51269; Civil Code 47, 48.8; Code of Civil Procedure 1985-1997; Government Code 11455.20, 54950-54963; Health and Safety Code 11014.5, 110423.2, 11053-11058; Labor Code 230.7; Penal Code 31, 240, 241.2, 242, 243.2, 243.4, 245, 261, 266c, 286, 288, 288a, 289, 626.2, 626.9, 626.10, 868.5; Welfare and Institutions Code 729.6; United States Code, Title 18 921; United States Code, Title 20 7151

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