

Policy 5144.1: Suspension And Expulsion/Due Process

Status: ADOPTED

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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 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 based solely on a student's truancy, tardiness, or absenteeism from assigned school activities. (Education Code 48900)

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. (Education Code 48918(j))

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 or unenrolled except under limited circumstances in accordance with Education Code 8489.1 and as specified in Administrative Regulation 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 the students 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, long-term 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

Civ. Code 47

Description

[Privileged communication](#)

Civ. Code 48.8

[Defamation liability](#)

Code of Civil Procedure 1985-1997

[Production of evidence; means of production](#)

Ed. Code 17292.5	<u>Program for expelled students; facilities</u>
Ed. Code 1981-1983	<u>Enrollment of students in community school</u>
Ed. Code 212.5	<u>Sexual harassment</u>
Ed. Code 233	<u>Hate violence</u>
Ed. Code 32260-32262	<u>Interagency School Safety Demonstration Act of 1985</u>
Ed. Code 35145	<u>Open board meetings</u>
Ed. Code 35146	<u>Closed sessions regarding suspensions</u>
Ed. Code 35291	<u>Rules for government and discipline of schools</u>
Ed. Code 35291.5	<u>Rules and procedures on school discipline</u>
Ed. Code 48645.5	<u>Former juvenile court school students; enrollment</u>
Ed. Code 48660-48666	<u>Community day schools</u>
Ed. Code 48853-48853.5	<u>Foster youth</u>
Ed. Code 48900-48927	<u>Suspension and expulsion</u>
Ed. Code 48950	<u>Speech and other communication</u>
Ed. Code 48980	<u>Parent/Guardian notifications</u>
Ed. Code 49073-49079	<u>Privacy of student records</u>
Ed. Code 52052	<u>Numerically significant student subgroups</u>
Ed. Code 52060-52077	<u>Local control and accountability plan</u>
Ed. Code 64000-64001	<u>Consolidated application</u>
Ed. Code 8489-8489.1	<u>Prohibition against expulsion of preschool student</u>
Gov. Code 11455.20	<u>Informal hearing procedures</u>
Gov. Code 54950-54963	<u>The Ralph M. Brown Act</u>
H&S Code 11014.5	<u>Drug paraphernalia</u>
H&S Code 11053-11059	<u>Controlled substances; standards and schedules</u>
Lab. Code 230.7	<u>Employee time off to appear in school on behalf of a child</u>
Pen. Code 240	<u>Assault defined</u>
Pen. Code 241.2	<u>Assault fines</u>
Pen. Code 242	<u>Battery defined</u>
Pen. Code 243.2	<u>Battery on school property</u>

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	Description
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	Description
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 & U.S. DOJ Civil Rights Divisions Pub	Resource on Confronting Racial Discrimination in Student Discipline, May 2023
U.S. DOE Publication	School Climate and Student Discipline Resources
U.S. DOE Publication	Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023
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

Code	Description
0450	Comprehensive Safety Plan
0450	Comprehensive Safety Plan

0460	<u>Local Control And Accountability Plan</u>
0460	<u>Local Control And Accountability Plan</u>
1114	<u>District-Sponsored Social Media</u>
1114	<u>District-Sponsored Social Media</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3	<u>Uniform Complaint Procedures</u>
1312.3-E(1)	<u>Uniform Complaint Procedures</u>
1312.3-E(2)	<u>Uniform Complaint Procedures</u>
1313	<u>Civility</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.3	<u>Tobacco-Free Schools</u>
3513.4	<u>Drug And Alcohol Free Schools</u>
3515	<u>Campus Security</u>
3515	<u>Campus Security</u>
3515.21	<u>Unmanned Aircraft Systems (Drones)</u>
3515.3	<u>District Police/Security Department</u>
3515.3	<u>District Police/Security Department</u>
3515.31	<u>School Resource Officers</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
3515.4	<u>Recovery For Property Loss Or Damage</u>
3516.2	<u>Bomb Threats</u>
4158	<u>Employee Security</u>
4158	<u>Employee Security</u>
4258	<u>Employee Security</u>
4258	<u>Employee Security</u>
4358	<u>Employee Security</u>
4358	<u>Employee Security</u>
5000	<u>Concepts And Roles</u>
5112.1	<u>Exemptions From Attendance</u>
5112.1	<u>Exemptions From Attendance</u>

5112.5	<u>Open/Closed Campus</u>
5113	<u>Absences And Excuses</u>
5113	<u>Absences And Excuses</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.1	<u>Chronic Absence And Truancy</u>
5113.11	<u>Attendance Supervision</u>
5116.2	<u>Involuntary Student Transfers</u>
5117	<u>Interdistrict Attendance</u>
5117	<u>Interdistrict Attendance</u>
5119	<u>Students Expelled From Other Districts</u>
5125	<u>Student Records</u>
5125	<u>Student Records</u>
5125.2	<u>Withholding Grades, Diploma Or Transcripts</u>
5131	<u>Conduct</u>
5131.1	<u>Bus Conduct</u>
5131.1	<u>Bus Conduct</u>
5131.2	<u>Bullying</u>
5131.2	<u>Bullying</u>
5131.4	<u>Student Disturbances</u>
5131.4	<u>Student Disturbances</u>
5131.5	<u>Vandalism And Graffiti</u>
5131.6	<u>Alcohol And Other Drugs</u>
5131.6	<u>Alcohol And Other Drugs</u>
5131.62	<u>Tobacco</u>
5131.62	<u>Tobacco</u>
5131.63	<u>Steroids</u>
5131.63	<u>Steroids</u>
5131.7	<u>Weapons And Dangerous Instruments</u>
5131.7	<u>Weapons And Dangerous Instruments</u>
5137	<u>Positive School Climate</u>

5138	<u>Conflict Resolution/Peer Mediation</u>
5142	<u>Safety</u>
5142	<u>Safety</u>
5144	<u>Discipline</u>
5144	<u>Discipline</u>
5144.2	<u>Suspension And Expulsion/Due Process (Students With Disabilities)</u>
5144.4	<u>Required Parental Attendance</u>
5144.4	<u>Required Parental Attendance</u>
5145.12	<u>Search And Seizure</u>
5145.12	<u>Search And Seizure</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.2	<u>Freedom Of Speech/Expression</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.3	<u>Nondiscrimination/Harassment</u>
5145.6	<u>Parent/Guardian Notifications</u>
5145.6-E(1)	<u>Parent/Guardian Notifications</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.7	<u>Sex Discrimination and Sex-Based Harassment</u>
5145.71	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
5145.71-E(1)	<u>Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures</u>
5145.9	<u>Hate-Motivated Behavior</u>
5148.3	<u>Preschool/Early Childhood Education</u>
5148.3	<u>Preschool/Early Childhood Education</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145	<u>Extracurricular And Cocurricular Activities</u>
6145.2	<u>Athletic Competition</u>
6145.2	<u>Athletic Competition</u>

6145.5	<u>Student Organizations And Equal Access</u>
6145.5	<u>Student Organizations And Equal Access</u>
6145.8	<u>Assemblies And Special Events</u>
6153	<u>School-Sponsored Trips</u>
6153	<u>School-Sponsored Trips</u>
6154	<u>Homework/Makeup Work</u>
6158	<u>Independent Study</u>
6158	<u>Independent Study</u>
6161.2	<u>Damaged Or Lost Instructional Materials</u>
6163.4	<u>Student Use Of Technology</u>
6163.4-E(1)	<u>Student Use Of Technology</u>
6164.6	<u>Identification And Education Under Section 504</u>
6164.6	<u>Identification And Education Under Section 504</u>
6173	<u>Education For Homeless Children</u>
6173	<u>Education For Homeless Children</u>
6173-E(1)	<u>Education For Homeless Children</u>
6173-E(2)	<u>Education For Homeless Children</u>
6173.1	<u>Education For Foster Youth</u>
6173.1	<u>Education For Foster Youth</u>
6173.4	<u>Education For American Indian Students</u>
6184	<u>Continuation Education</u>
6184	<u>Continuation Education</u>
6185	<u>Community Day School</u>
6185	<u>Community Day School</u>
9000	<u>Role Of The Board</u>
9321	<u>Closed Session</u>
9321-E(1)	<u>Closed Session</u>
9321-E(2)	<u>Closed Session</u>
9322	<u>Agenda/Meeting Materials</u>