

HUMBOLDT COUNTY OFFICE OF EDUCATION

JOINT EDUCATION SERVICES PLAN FOR EXPELLED STUDENTS WITHIN HUMBOLDT COUNTY

**DEVELOPED IN PARTNERSHIP
WITH HUMBOLDT COUNTY SCHOOL DISTRICTS**

**REVISED TRIENNIAL - SPRING 2009
PREPARED FOR SUBMISSION TO THE
CALIFORNIA DEPARTMENT OF EDUCATION**

**Original Plan Approved by Boards of Education, June 1997
Revised Triennial, June 2000
Revised Triennial, June 2003
Revised Triennial, June 2006**

THE LEGAL REQUIREMENTS PERTAINING TO A COUNTY-WIDE PLAN

Chapter 974, Section 8 was enacted into law in 1995 as a result of passage of Assembly Bill 922, Friedman. Section 48926 requires the development of a plan for providing education services to all expelled students. The text of that section reads:

"Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the government board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to 48916.1, on June 30th thereafter."

THE LAW REGARDING EXPULSION AND THE MAINTENANCE OF AN EDUCATIONAL PROGRAM FOR EXPELLED STUDENTS

Section 48916.1 which is referenced in 48926 reads:

"At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both."

DEFINITION OF KEY WORDS AND PHRASES

COUNTY COMMUNITY SCHOOL: Refers to an educational program offered by the county office of education under authority of Education Code Section 1980 (c). County community schools are optional programs.

DISTRICT COMMUNITY DAY SCHOOL: Refers to an educational program offered by a local school district in accordance with Education Code Section 48660 et seq. District community day schools are optional programs.

EXPULSION: Expulsion means removal of a pupil from the immediate supervision and control, or the general supervision, of school personnel, as those terms are used in Education Code Section 46300. In accordance with law, certain infractions require a board to expel a student while other infractions are optional in this regard. Please see the appendix for a more thorough discussion of the criteria for suspension/expulsion from school.

EXPULSION ORDER: Refers to the specific action of the governing board of a local school district to remove a pupil from attendance. Only a governing board can expel a student under authority described in Education Code Section 48918 (j).

INDEPENDENT STUDY: Describes an instructional approach wherein an individualized program (plan) of study is created for a student with most of the instruction occurring at home, or in the community, and not under the direct supervision of a credentialed teacher. Many independent study programs require as little as one hour of direct instruction per week with the remaining time in student self-directed study. Independent study programs are optional and, if authorized under local board policy, require parent and student approval before being utilized.

REHABILITATION PLAN: Refers to the required component within any order of expulsion that requires the board to describe a plan for rehabilitation for the expelled pupil. That plan may include, but is not limited to: a) periodic review and assessment at the time of review for readmission; b) recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service and/or other rehabilitation programs; and c) with parent/guardian consent, enrollment in a county-supported drug rehabilitation program if the offense was related to controlled substances as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol. (Reference Education Code Section 48916.5).

SUSPENDED EXPULSION: Refers to an action by the governing board to suspend their order of expulsion under certain conditions mutually agreed to by the student, the parent/guardian, and the board. A suspended expulsion plan typically requires the student to maintain appropriate behavior and positive attendance/academic progress during what would have been the term of expulsion. The penalty for failing to adhere to such terms and conditions automatically voids the suspension and results in the original expulsion order being implemented without further review by the board. Only those expulsions for behaviors considered "less serious" may be considered for possible suspension.

SERVICES/PROGRAM OPTION MATRIX AS OF MARCH, 2009

What follows is a regional matrix summary of the programs and services available as of March, 2009, with gaps in services/programs as perceived by local school superintendents. An “Ø” identifies a gap that is perceived by the local school district and is one that It wishes to explore as a potential addition to its list of options. A “N/A” marking might also be considered a “gap;” however, “N/A” means that the district does not wish to explore this option at this time, that this option is not needed, or that the district could not consider creating such an option because of the small size of the district. A “√” is an option which is currently established within the district. The data was obtained from a written survey of all thirty-two school districts.

Service/Program Matrix for Expelled Students as of 03/31/2009

Region	School or District	Grades	Susp. of expulsion with placement on same campus	Susp. of expulsion with placement on different campus	Susp. of expulsion with independent study option	Referral to district community day school	Referral to county community school	Referral to charter school
N O R T H C O U N T Y	Arcata (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Big Lagoon (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Blue Lake (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Fieldbrook (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Green Point (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Jacoby Creek (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Maple Creek (D)	K-8	✓	N/A	✓	N/A	∅	N/A
	McKinleyville (D)	K-8	✓	✓	✓	N/A	✓	N/A
	Northern Humboldt (D)	9-12	✓	✓	✓	✓	✓	✓
	Orick (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Pacific Union (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Peninsula (D)	K-8	N/A	N/A	✓	N/A	✓	N/A
	Trinidad (D)	K-8	✓	N/A	✓	N/A	✓	N/A

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S O U T H C E N T R A L C O U N T Y	Bridgeville (D)	K-8	N/A	N/A	✓	N/A	✓	N/A
	Cuddeback (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Ferndale (D)	K-12	✓	N/A	∅	N/A	✓	✓
	Fortuna Elementary (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Fortuna High (S)	9-12	✓	✓	✓	✓	✓	N/A
	East High (S)	10-12	✓	✓	✓	✓	✓	✓
	Hydesville (D)	K-8	✓	N/A	✓	N/A	✓	✓
	Loleta (D)	K-8	N/A	N/A	✓	N/A	✓	✓
	Mattole (D)	K-8	✓	✓	✓	N/A	✓	✓
	Triple Junction High (S)	9-12	✓	N/A	✓	N/A	✓	✓
	Rio Dell (D)	K-8	✓	N/A	✓	N/A	✓	N/A
	Rohnerville (D)	K-8	✓	✓	✓	N/A	✓	✓
	Scotia (D)	K-8	✓	N/A	N/A	N/A	✓	N/A

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CENTRAL COUNTY	Cutten (D)	K-6	✓	N/A	✓	N/A	✓	N/A	
	Eureka City Schools (D)	K-12	✓	✓	✓	✓	∅	N/A	
	Eureka Secondary (S)	9-12	✓	✓	✓	✓	∅	N/A	
	Freshwater (D)	K-8	N/A	N/A	✓	N/A	✓	N/A	
	Garfield (D)	K-6	N/A	N/A	✓	N/A	✓	N/A	
	Kneeland (D)	K-8	N/A	N/A	✓	N/A	✓	N/A	
	South Bay (D)	K-6	✓	N/A	✓	N/A	✓	N/A	

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E A S T C O U N T Y	Klamath-Trinity (D)	K-12	✓	✓	✓	✓	✓	N/A	
	Hoopla High (S)	9-12	✓	✓	✓	✓	✓	N/A	
	Captain John (S)	9-12	✓	✓	✓	✓	✓	N/A	

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S O U T H C O U N T Y	Southern Humboldt (D)	K-12	✓	✓	✓	N/A	✓	N/A	
	South Fork High (S)	9-12	✓	✓	✓	N/A	✓	N/A	
	Osprey Learning Ctr. (S)	K-12	✓	✓	✓	N/A	✓	N/A	

EXISTING EDUCATIONAL ALTERNATIVES PROVIDED BY THE COUNTY

The Humboldt County Office of Education operates several community school sites in those geographic areas of the county where local school districts have requested the availability of such programs and where potential student enrollment would make such programs financially viable. As of the date of this plan, community school sites were operating in Eureka (serving students from the Central Bay area region), Fortuna (serving the Eel River Valley school districts and those from the Ferndale area), Hoopa (serving Klamath-Trinity Unified School District), and Garberville (serving Southern Humboldt Unified School District).

Community schools are typically staffed with a one teacher/one aide instructional team for every twenty or so students. Any student in grades kindergarten through twelve is eligible for enrollment if he/she meets the criteria. Generally, enrollment is more common for students in grades seven through twelve. Students are referred for enrollment consideration by the Juvenile Court, the Humboldt County Probation Department, district boards regarding expelled students, and SARB referrals after Probation has reviewed and recommended the student for community school enrollment. Enrollment is voluntary upon mutual agreement of the student, parent/guardian, community school teacher and the probation officer. Each student undergoes an academic assessment at the time of entry and an educational plan is developed to ensure that the student could make satisfactory progress toward his/her educational goal. Student goals can include, but are not necessarily limited to: a) a desire to transfer back to the regular educational program at some time in the future; b) high school graduation; c) earning a GED certificate; or d) passage of the California High School Proficiency test once attaining the age of 16 and with parent/guardian consent.

Transportation to/from a county community school is the responsibility of the student and his/her parent/guardian. Occasionally, a local service club or non-profit organization will donate monies to be used to purchase blocks of tickets on the local bus lines. When available, these tickets are given to students on an as needed and as requested basis.

As of March 31, 2006, five of the 300 students enrolled in the county's various community school programs had been previously expelled by a local school district.

GAPS IN SERVICES/PROGRAMS FOR EXPELLED STUDENTS

Please refer to the matrix pages to see those areas where either an "Ø" or "N/A" appears. An "Ø" identifies a gap that is perceived by the local school district and is one that it wishes to explore as a potential addition to its list of options. A "N/A" marking might also be considered a "gap;" however, "N/A" means that the district does not wish to explore this option at this time, or could not add such an option because of the small size of the district.

STRATEGIES FOR ADDRESSING THE IDENTIFIED GAPS IN SERVICES/PROGRAMS

GAP #1: Since the majority of elementary school districts in Humboldt County are single site districts, and because almost all of the districts are at full capacity with regard to the use of facilities for regular classes, few classroom alternatives are possible even if offered on a regional basis under a collaborative model. One possible solution strategy could be to create off-site district-operated community day schools with some of these programs enrolling students from more than one district. Eureka City Schools, Fortuna Union High School, and Northern Humboldt Union High School District are currently operating a community day school program.

GAP #2: Expelled students who are referred to community schools at the time of expulsion and who do not abide by the terms and conditions of their enrollment agreement, either for failing to meet discipline or attendance standards, may now have a second viable alternative through enrollment in one of the charter schools within the county. The charter schools offer both site based and independent study options for students. Of course, students could be enrolled in a private school alternative with parent consent and parent paid tuition. Also a student could petition for enrollment in another public school district if they were not expelled under the mandatory sections of the Code. Fortunately, few students fail their community school placement; however, some students who are referred never enroll originally, and thus remain unattached to any school system.

Since the 2003 Plan and the identified need stated above, the County has created a Community School Orientation Program that the student and parent initially attend to get acquainted with the overall program, the staff and the procedures. The student is in the program for one week where he/she is given academic level assessments to determine appropriate program placement and has an opportunity to establish a relationship with an adult who is responsible for assisting the student in maintaining a good attendance record and making appropriate choices in school. This same adult will be able to assist family members in supporting their student in school attendance and school work completion.

GAP #3: There are currently no district community day school programs located in the East County, South Central County and South County areas.

ALTERNATIVE PLACEMENTS FOR STUDENTS WHO ARE EXPELLED AND PLACED IN DISTRICT COMMUNITY DAY SCHOOLS BUT WHO FAIL TO MEET THE TERMS AND CONDITIONS OF THEIR REHABILITATION PLAN OR WHO ARE CONSIDERED A DANGER TO OTHER DISTRICT PUPILS

The option for these students is enrollment in a county-operated community school, a charter school, or a private school.

TIMELINE FOR REVISION OF THE JOINT EDUCATIONAL SERVICES PLAN

This plan is required by law to be updated during the period of January, 2009, through June, 2009, and is to be re-submitted at that time to the State Superintendent of Public Instruction. Those persons responsible for updating the plan shall be the Humboldt County Office of Education's supervisor for alternative education programs working in collaboration with local school district superintendents.

**This document has been revised as a result of the input from all 32 districts in Humboldt County during the Spring of this school year. This represents the official revised countywide plan for the Joint Education Services Plan for Expelled Students in Humboldt County.*

Garry T. Eagles, Ph.D., Superintendent
Humboldt County Office of Education

Date

APPENDICES

- VARIOUS EDUCATION CODE SECTIONS PERTAINING TO THE
SUSPENSION AND EXPULSION OF STUDENTS:

48900
48900.2
48900.3
48900.4
48900.7
48915
48915.01
48915.1
48915.2
48915.5
48916
48916.1
48916.5
48917

- HUMBOLDT COUNTY BOARD OF EDUCATION EXPULSION HEARING CHECKLIST

- SPECIAL EDUCATION STUDENT PRE-EXPULSION HEARING CHECKLIST

EDUCATION CODE

SECTION 48900, 48900.2, 48900.3, 48900.4, 48900.7

48900.

A pupil may not be suspended from school or recommended for expulsion, unless the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (q), inclusive: (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense

(b) 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 pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stolen or attempted to steal school property or private property.

(h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(k) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(l) Knowingly received stolen school property or private property.

(m) Possessed an imitation firearm. As used in this section, "imitation firearm" means 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.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

(q) Engaged in, or attempted to engage in, hazing as defined in Section 32050.

(r) A pupil may not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

- (1) While on school grounds.
- (2) While going to or coming from school.
- (3) During the lunch period whether on or off the campus.
- (4) During, or while going to or coming from, a school sponsored activity.

(s) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(t) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

(u) A superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, including, but not limited to, counseling and an anger management program, for a pupil subject to discipline under this section.

(v) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

48900.2.

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purposes of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3.

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

48900.4.

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

48900.7.

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

EDUCATION CODE

SECTION 48915, 48915.01, 48915.1, 48915.2, 48915.5

48915.

(a) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstance:

- (1) Causing serious physical injury to another person, except in self-defense.
- (2) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (3) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (4) Robbery or extortion.
- (5) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any

school employee.

(b) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil committed an act listed in subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

(d) The governing board shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- (2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
- (3) Is not housed at the school site attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f),(g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

- (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 pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study which meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school,

and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(h) As used in this section, the term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

48915.01.

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

48915.1.

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

48915.2.

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

48915.5.

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with subsection (k) of Section 1415 of Title 20 of the United States Code, the discipline provisions contained in Sections 300.519 through 300.529 of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with paragraph (1) of subsection (a) of Section 1412 of Title 20 of the United States Code and subsection (d) of Section 300.121 of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from school bus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

EDUCATION CODE
SECTIONS 48916, 48916.1, 48916.5 & 48917

48916.

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for re-admission on a case-by-case basis.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil re-admittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

48916.1.

(a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(e) (1) Each school district shall maintain the following data:

(A) The number of pupils recommended for expulsion.

(B) The grounds for each recommended expulsion.

(C) Whether the pupil was subsequently expelled.

(D) Whether the expulsion order was suspended.

(E) The type of referral made after the expulsion.

(F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

48916.5.

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation

program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

48917.

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

**HUMBOLDT COUNTY BOARD OF EDUCATION
EXPULSION HEARING COMPLIANCE CHECKLIST**

PRE-APPEAL HEARING CRITERIA

- ___ The pupil was afforded a hearing at the district level to determine whether he/she should have been expelled. The hearing was conducted within 30 school days after the principal or superintendent determined that expulsion was appropriate or, if the pupil requested an extension in writing, the hearing was conducted within the appropriate timeframe. [EC 48918(a)]

- ___ Written notice of the hearing was forwarded to the pupil at least ten calendar days prior to the date of the hearing. [EC 48918(a)]

- ___ The hearing notice contained the following information:
 - ___ a) the date and place of the hearing;
 - ___ b) a statement of the specific facts and charges upon which the proposed expulsion was based;
 - ___ c) a copy of the disciplinary rules of the district related to the alleged violation;
 - ___ d) a notice of the requirements of EC 48915.1;
 - ___ e) a notice of the parent's/pupil's right to appear in person or be represented by counsel;
 - ___ f) a notice of the right to inspect all documents to be used at the hearing, question witnesses who testify, question evidence presented at the hearing, and present oral and documentary evidence. [EC 48918(b)]

- ___ The hearing was conducted in closed session unless the pupil submitted a request in writing, at least five days in advance, that the matter be heard in open session. [EC 48918(c)]

- ___ The recommendation for expulsion was based upon acts of the pupil enumerated in EC 48900 and/or EC 48915 and involved acts related to school activity or attendance. [EC 48915 and 48918(h)]

_____ If the pupil has been identified as an individual with exceptional needs, the expulsion hearing took place only after the following occurred:

- a) a pre-expulsion assessment was conducted;
- b) an IEP team met and determined that the misconduct was not caused by, nor was it a direct manifestation of, the pupil's identified disability and that the pupil had been appropriately placed;
- c) all due process hearing and appeals, if initiated pursuant to Section 1415 of Title 20 of the United States Code were completed. [EC 58915.5(h)]

_____ The decision of the governing board was made within ten school days after conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or superintendent, unless the pupil requests in writing that the decision be postponed. [EC 48918(a)].

_____ The decision of the governing board to expel a pupil was based upon substantial evidence relevant to the charges and adduced at the expulsion hearing. Except as permitted by law, no evidence to expel was based solely upon hearsay evidence. [EC 48918(f)]

_____ The pupil/parent/representative was given the opportunity to question witnesses, challenge testimony and evidence against the pupil, and to provide testimony and evidence on the pupil's behalf at the hearing. [EC 48918(b)]

_____ A record of the hearing was made and maintained by the district. [EC 48918(k)]

_____ Final action to expel was taken in open board session. [EC 48918(j)]

_____ The expulsion order was accompanied by a plan of rehabilitation. [EC 48916(b)]

_____ A notice of expulsion was sent to the parent/pupil and contained information related to the right to appeal the decision to the county board. [EC 48918(j)]

- _____ The notice of expulsion contained information regarding an education alternative placement to be provided to the pupil during the time of the expulsion. [EC 48918(j)]
- _____ An appeal of the expulsion was filed by the pupil/parent within 30 days following the original decision of the district's governing board, regardless of whether a period of probation and/or suspension was ordered. [EC 48919]
- _____ At the time of filing an appeal to the county board, the pupil simultaneously submitted a request to the district for a transcript of the proceedings and any related documentation; and such transcript and copies of evidence was provided by the district within five school days of the request. [EC 48919]
- _____ The parent/pupil provided the county board with a copy of the original expulsion hearing transcript and other related documents. [EC 48919]

POST-APPEAL HEARING CRITERIA

- _____ Based upon the record of the proceedings and a review of the evidence, the district's governing board acted within its jurisdiction. [EC 48922(a)(1)]
- _____ Based upon the record of the proceedings and a review of the evidence, the district's governing board or administrative designee of the board conducted a fair and impartial hearing. [EC 48922(a)(2)]
- _____ Based upon the record of the proceedings and a review of the evidence, there was no prejudicial abuse of discretion in the original hearing. [EC 48922(a)(3)]
- _____ Based upon the record of the proceedings and review of the evidence, the district was reasonably diligent in providing all material evidence; and no evidence was improperly excluded at the original hearing. [EC 48922(a)(4)]
- _____ Based upon the record of the proceedings and review of the evidence, the decision to expel was supported by the findings prescribed in EC 48915. [EC 48922(c)(2)]
- _____ Based upon the record of the proceedings and a review of the evidence, the findings were supported by the evidence. [EC 48922(c)(3)]

Checklist for Expulsion of a Special Education Student

In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivision (b) or (d) of Section 48915 only if all of the following conditions are met:

Date:

- _____ 1. The completion of a pre-expulsion educational assessment, which shall include a review of the appropriateness of the pupil's placement at the time of the alleged misconduct, and a determination of the relationship, if any, between a pupil's behavior and his/her disability.
 - _____ a. The parent shall make the pupil available for the assessment at a site designated by the local educational agency (LEA) without delay.
 - _____ b. The parent's right to an independent assessment under Section 56329 applies despite the fact that the pupil has been referred for expulsion.
 - _____ c. Parental consent is not required prior to conducting a pre-expulsion educational assessment pursuant to subdivision (e), or as a condition of the final decision of the local board to expel.

- _____ 2. An individualized education program (IEP) team meeting is scheduled and held.
 - a. The parent has the right to participate in the IEP meeting preceding the commencement of expulsion proceedings, following the completion of a pre-expulsion assessment, through actual participation, representation, or a telephone conference call.
 - b. The meeting shall be held at a time and place mutually convenient to the parent and local educational agency within the period, if any, of the pupil's pre-expulsion suspension.
 - c. A telephone conference call may be substituted for the meeting.
 - _____ d. Each parent shall be notified of his/her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation, if the notice required has been provided.
 - _____ e. The notice shall specify that the meeting may be held without the parent's participation unless the parent requests a postponement for up to three schooldays.
 - f. Each parent may request that the meeting be postponed for up to three schooldays.
 - _____ g. If a postponement has been granted, the LEA may extend any suspension of a pupil for the period of postponement if the pupil continues to pose an immediate threat to the safety of himself, herself, or others and the LEA notifies the parent that the suspension will be continued during the postponement. However,

the suspension shall not be extended beyond ten (10) consecutive schooldays unless agreed to by the parent, or by court order.

_____ h. If a parent who has received proper notice of the meeting refuses to consent to an extension beyond ten (10) consecutive schooldays and chooses not to participate, the meeting may be conducted without the parent's participation.

3. The IEP Team shall

- _____ a. review the pre-expulsion educational assessment.
- _____ b. review and consider the pupil's health records and school discipline records.
- _____ c. determine whether the misconduct was or was not caused by, was or was not a direct manifestation of, the pupil's identified disability.
- _____ d. determine whether the pupil had been or had not been appropriately placed at the time the misconduct occurred.

4. IEP Team Determination

If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the pupil's disability, and if it is determined that the pupil was appropriately placed, the pupil shall be subject to the applicable disciplinary actions and procedures.

5. Due Process Hearing

The parent has the right to a due process hearing if the parent disagrees with the decision of the IEP team or if the parent disagrees with the decision to rely upon the information obtained, or proposed to be obtained.

6. Expulsion Hearing

- _____ a. No expulsion hearing shall be conducted for an individual with exceptional needs until all the following have occurred:
 - _____ 1) a pre-expulsion assessment is conducted.
 - _____ 2) the IEP team met and determined that
 - _____ a) the pupil's misconduct was not caused by, or was not a direct manifestation of, the pupil's identified disability,
 - _____ b) the pupil had been appropriately placed at the time the misconduct occurred.
 - _____ 3) Due process hearings and appeals, if initiated, are completed.

7. Transportation

If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent.

NOTE: This checklist source is Ed Code 48915.5. When using this checklist, it is recommended that one review this Ed Code Section in its entirety.