

SUSPENSION AND EXPULSION/DUE PROCESS

The Board of Education has established policies and standards of behavior in order to promote learning and protect the safety and wellbeing of all students. When these policies and standards are violated, it may be necessary to discipline a student or suspend or expel a student from classroom instruction.

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

Except for single acts of a grave nature or offenses for which suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be those specified in law and administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any Office of Education school, regardless of when it occurs, including, but not limited to:

- 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

Office of Education staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the nondiscrimination policies.

The Board finds that it has a fundamental responsibility under the law to act as the board of appeal for students expelled from public schools in Humboldt County. Because this responsibility may be in conflict with its authority to expel students from its own schools, the Board delegates to the Superintendent the authority to act on its behalf for the purpose of expelling a student enrolled in a Humboldt County Office of Education school or program.

Appropriate Use of Suspension and Expulsion

Except when a student commits an act that violates Education Code 48900(a)-(e) or his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct.

Except when a student commits an act listed in Education Code 48915(c), the Principal or designee shall have the discretion to determine whether to expel the

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student. To correct the behavior of any student who is subject to discipline, the Principal or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144 - Discipline.

Office of Education staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.

Student Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and law.

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Teachers reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and his/her parents/guardians and to improve classroom behavior.

Whenever a student is removed from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in that class. A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the

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student. Parental attendance may be requested on the day the student returns to class or within one week thereafter. The principal or designee shall contact any parents/guardians who do not respond to the request to attend school by mail or other means that maintains confidentiality of the student's records. The Board recognizes that parental compliance with this policy may be delayed, modified or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get certain release time from work.

Administrative regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation.

Authority to Expel

As required by law, the Principal shall recommend expulsion and the Superintendent 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 grounds.

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 certified 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, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4.
6. Possessing an explosive as defined in 18 USC 921.

For all other violations listed in Education Code, the Principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Superintendent shall order the student expelled only if it makes a finding of either or both 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 student causes a continuing danger to the physical safety of the student or others.

No student shall be expelled for disruption or willful defiance.

Decision not to Enforce Expulsion Order

On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Superintendent pursuant to the requirements of law and administrative regulation.

Maintenance and Monitoring of Outcome Data

The Principal or designee shall annually present to the Board a report of the outcome data which the Office of Education is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

The report shall be disaggregated numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, and students with disabilities. The report also shall include information about whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

*Legal Reference:**EDUCATION CODE**212.5 Sexual harassment**233 Hate Violence**1981 Enrollment of students**17292.5 Program for expelled students**32261 Interagency School Safety Demonstration Act of 1985**35145 Open board meetings**35146 Closed sessions (re suspensions)**35291 Rules (for government and discipline of schools)**35291.5 Rules and procedures on school discipline**48645.5 Readmission; contact with juvenile justice system**48660-48666 Community day schools**48853.5 Foster youth**48900-48926 Suspension and expulsion**48950 Speech and other communication**48980 Parental notifications**49073-49079 Privacy of student records*

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52060-52077 Local control and accountability plan

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property 243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7151 Gun Free Schools

COURT DECISIONS

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

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

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H., (2001) 85 Cal. App. 4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

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

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

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

ATTORNEY GENERAL OPINIONS

84 Ops. Cal. Atty. Gen. 146 (2001)

80 Ops. Cal. Atty. Gen. 348 (1997)

80 Ops. Cal. Atty. Gen. 91 (1997)

Policy

HUMBOLDT COUNTY OFFICE OF EDUCATION

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