

SUSPENSION AND EXPULSION/DUE PROCESS**Definitions**

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, “suspension” does not mean any of the following:

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 Governing Board 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 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.

Day means a calendar day unless otherwise specifically provided.

School day means a day upon which the schools of the Office of Education are in session or weekdays during the summer recess.

Student includes a student’s parent/guardian or legal counsel.

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.

School Property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases.

Notice of Regulations

At the beginning of each school year, the principal shall ensure that all students and parents/guardians are notified in writing of all school rules

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related to discipline, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment.

Grounds for Suspension and Expulsion

Any student, including a student with disabilities, may be subject to suspension or expulsion when it is determined that he/she:

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.

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, such a student may be suspended or expelled pursuant to Education Code 48900(a) when he/she has been adjudged by a juvenile court to have committed, as an aider or a better, a crime of physical violence in which the victim suffered great or serious bodily injury.

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.
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.
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, alcohol beverage or intoxicant.
5. Committed or attempted to commit robbery or extortion.
6. Caused or attempted to cause damage to school property or private property.
7. Stole or attempted to steal school property or private property.
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. Possessed or used electronic cigarettes, electronic hookahs, or other vapor-emitting devices, with or without nicotine content, that mimic the use of tobacco products. This restriction shall not prohibit a student from using or possessing his/her own prescription products.

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9. Committed an obscene act or engaged in habitual profanity or vulgarity.
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5.
11. Knowingly received stolen school property or private property.
12. Possessed 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.
13. 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.
14. 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.
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
16. Engaged in, or attempted to engage in, hazing.

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events.

17. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel.

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

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Bullying includes one or more acts by a student or group of students that constitute sexual harassment pursuant to Education Code 48900.2, as defined in item #20 below; hate violence pursuant to Education Code 48900.3, as defined in item #21 below; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #22 below.

Electronic act means the transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, video, image, cyber sexual bullying, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Cyber Sexual Bullying means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a pupil to another pupil or school person by means of an electronic act with the intent to bully as described in BP 5131.3. A photo or other visual recording shall include the depiction of a nude, semi-nude, or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording or other electronic act.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her disability.

18. Made terrorist threats against school officials and/or school property.

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$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.

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31.

A student in grades 4 through 12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

20. Committed sexual harassment as defined in Education Code 212.5.
Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment.

21. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233.

Hate violence means any crime committed by force or threat of force against a person or property of another for the purpose of injuring or intimidating a victim, interfering with that person's free exercise or enjoyment of any right secured to him or her by the Constitution or laws of the state or by the laws or Constitution of the United States in whole or in part because of one or more of the following actual or perceived characteristics of the victim: disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics.

22. Intentionally harassed, threatened or intimidated a student or group of students or school personnel to the extent of having the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading student or school personnel rights by creating an intimidating or hostile educational environment.

23. Any student in grades 4-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.

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 acts #1-19 listed in "Grounds for Suspension and Expulsion" above.

A teacher also may refer a student to the principal or designee for consideration of suspension from school.

When removing a student from his/her class, the teacher shall immediately report this action to the principal and send the student to the principal for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been removed.

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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 may attend if either the parent/guardian or teacher so requests.

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.

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, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. 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.

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 his/her 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.

This notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1
4. Ask the parent/guardian to contact the school if there are reasonable factors that would prevent him/her from complying with the attendance requirement

Suspension by Superintendent, Principal or Principal's Designee

The Principal or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board Policy under "Authority to Expel": and for which he/she is required to recommend expulsion.

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Suspension also may be imposed upon a first offense if the Superintendent, principal or designee determines the student violated items #1-5 listed in “Grounds for Suspension and Expulsion” above or if the student’s presence causes a danger to persons.

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student.

When other means of correcting a student’s behavior are implemented prior to imposing suspension upon the student, including supervised suspension, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student’s record.

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion.

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a 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.

A special education student may be suspended from school for not more than 10 cumulative school days in any school year.

The Office of Education 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.

Due Process Procedures for Suspension

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the principal or designee 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 him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense.

This conference may be omitted if the principal or designee 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 his/her right to it 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.

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.

This notice shall state the specific offense committed by the student.

In addition, the notice may also 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 that state law requires 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.

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.

5. **Extension of Suspension:** If the Superintendent 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 principal or

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designee may, in writing, extend the suspension until such time as the Superintendent has made a decision.

- a. 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.
- b. Extension of the suspension may be made only if the Principal 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.
- c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and representative of the appropriate county child welfare agency to attend the meeting.
- d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the office liaison for homeless students.

In addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

Authority to Expel

As authorized by the Board, a student may be expelled only by the Superintendent. The Superintendent shall expel, as required by law, any student found to have committed certain offenses listed below under "Mandatory Recommendation and Mandatory Expulsion."

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

Mandatory Recommendation for Expulsion

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

1. Causing serious physical injury to another person, except in self-defense.
2. Possession of any knife as defined in Education Code 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 (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician.
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 or designee shall recommend that the Superintendent expel any student found at school or at a school activity to be:

1. Possessing, as verified by an Office of Education 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.
However, possession of an imitation firearm, as defined in Education Code 48900(m) shall not be regarded as an offense requiring mandatory recommendation for expulsion and mandatory expulsion.
2. Brandishing a knife as defined in Education Code 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" above.

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5. Possessing an explosive as defined in 18 USC 921 (see definition of explosive under Suspension by Superintendent, Principal or Principal's Designee, Item #5 above).

Upon finding that the student committed any of the above acts, the Superintendent shall expel the student.

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 designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred.

The student is entitled to 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 superintendent's discretion.

If the Superintendent finds it impractical to comply with these time requirements for conducting an expulsion hearing, the Principal 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.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

Stipulated Expulsion

After a determination that one of the grounds listed above under "Grounds for Suspension and Expulsion" has occurred, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion. The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian.

The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing to appeal the expulsion to the County Board of Education and to consult legal counsel.

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

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physical, mental or emotional needs of a student who is the complaining witness.

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the Office of Education's suspension and expulsion policy and regulation and shall advise the witness of his/her right to:

1. Receive five days' notice of his/her scheduled testimony at the hearing.
2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies.
3. Have a closed hearing during the time he/she testifies.

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.

Written Notice of the Expulsion Hearing

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include:

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 Office of Education's disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the Office of Education 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 48915(a) or (c).
5. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by legal counsel or by a nonattorney 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.

Nonattorney advisor means an individual who is not an attorney or lawyer,

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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.

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code 48853.5 should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call.

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the office liaison for homeless students at least 10 days prior to the hearing

Conduct of Expulsion Hearing

A hearing conducted by the Superintendent, a hearing officer or administrative panel shall conform to the following procedures.

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Superintendent, hearing officer or hearing panel shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated.

Whether the expulsion hearing is held in closed or public session, Superintendent/hearing officer/hearing panel may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Superintendent/hearing officer/hearing panel admits any other person

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to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session.

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 his/her 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.

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.
3. Subpoenas: Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the
4. 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.

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.

If the Superintendent 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 I item #4 below.

5. Presentation of Evidence: While technical rules of evidence do not apply to expulsion hearings, 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

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serious affairs. The decision of the Superintendent to expel must be supported by substantial evidence that the student committed any of the acts listed in “Grounds for Suspension and Expulsion” above.

Findings of fact shall be based solely on the evidence at the hearing. While no evidence 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.

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.

6. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student:
 - 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 his/her 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 he/she 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

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the complaining witness and to prevent discouragement of complaints, the Office of Education shall provide a non-threatening environment.

- 1) A room separate from the hearing room shall be provided 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 he/she 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 he/she is normally in school, if there is no good cause to take the testimony during other hours.
 - (c) Permit one of the support persons to accompany complaining witness to the witness stand.
7. Decision: The Superintendent's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed.

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing himself/herself, the Superintendent 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 Superintendent may appoint an impartial administrative panel composed of three or more certificated administrative personnel, none of whom shall be members of the Board of Education or on the staff of the Humboldt County Office of Education.

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Superintendent as specified above in "Conduct of Expulsion Hearing," including the requirement to issue its decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed.

The hearing officer or administrative panel shall, within three school days after

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the hearing, determine whether to recommend expulsion of the student to the Superintendent. 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 Office of Education staff, including the student's teachers and with the student's parent/guardian. The decision to not recommend expulsion shall be final.

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Superintendent. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Superintendent 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 Superintendent may order.

If a hearing officer or administrative panel is not used, the decision on whether to expel a student shall be made by the Superintendent within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. If a hearing officer or administrative panel is used, the Superintendent shall make his/her 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.

In accordance with Board policy, the Superintendent, hearing officer or administrative panel may recommend that the enforcement of the expulsion be suspended. (See "Decision Not to Enforce Expulsion Order below.")

Final Action

Whether the expulsion hearing is conducted in closed or public session by a hearing officer or an administrative panel, the final action to expel shall be announced by the Superintendent at a public meeting of the Board.

If the Superintendent 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 Superintendent shall set a date when the student shall be reviewed for readmission to school. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Superintendent 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, the superintendent shall set a

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date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session in which the expulsion occurred.

At the time of the expulsion order, the Superintendent shall recommend a plan for the student's rehabilitation, which may include:

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

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 above under "Grounds for Suspension and Expulsion."
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian.
3. Notice of the right to appeal the expulsion to the County Board of Education.
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion.
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 Humboldt County Office of Education, pursuant to Education Code 48915.1.

Decision Not to Enforce Expulsion Order

In accordance with Board policy, when deciding whether to suspend the enforcement of an expulsion, the Superintendent shall take into account the following criteria:

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1. The student's pattern of behavior.
2. The seriousness of the misconduct.
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program.

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The Superintendent 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 Superintendent'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 Superintendent if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the Office of Education'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 Superintendent shall reinstate the student in an appropriate school program. Upon reinstatement, the Superintendent may order the expunging of any or all records of the expulsion proceedings.
6. 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, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code 48915.1(b).
7. Suspension of the enforcement of an expulsion order shall not affect the

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time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education.

Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Superintendent's decision to the County Board of Education. The appeal must be filed within 30 days of the Superintendent's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

The student or parent/guardian shall submit a written request for a copy of the written transcripts and supporting documents from the school simultaneously with the filing of the notice of appeal with the County Board. The Office of Education shall provide the student with these documents within 10 school days following the student's written request.

Placement During Expulsion

The Superintendent shall refer expelled students to a program of study that is:

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.

When the placement described above is not available and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #19-21 under Grounds for Suspension and Expulsion above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school.

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12.

Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Superintendent when he/she ordered the expulsion, the Principal or designee shall consider readmission of the student.
2. The principal or designee shall hold a conference with the parent/guardian

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and the student. At the conference the student's rehabilitation plan shall be reviewed and the principal 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 principal or designee shall transmit to the Superintendent his/her recommendation regarding readmission.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the decision regarding readmission.
5. The Superintendent may deny readmission only if he/she 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 Office of Education students or employees.
6. If the Superintendent denies the readmission of a student, the Superintendent 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.
7. The Superintendent shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the program from which the student was expelled. This notice shall indicate the Superintendent's determination of the educational program which the Superintendent has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district.

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile facility, enrollment in a juvenile school, or other such contact with the juvenile justice system.

Maintenance of Records

The Superintendent shall maintain a record of each suspension and 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 written request by that school.

The Superintendent or designee shall, within five working days, honor any district's or county office of education's request for information about an expulsion from an Office of Education school or program.

Notifications to Law Enforcement Authorities

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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.

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, sale or furnishment of weapons, firearms or explosives or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10.

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 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol or intoxicants of any kind.