

Students

SUSPENSION AND EXPULSION/DUE PROCESS

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

(cf. 5144 - Discipline)

Except for offenses for which suspension or expulsion is permitted or required by law for a student's first offense, suspension shall be imposed only when other means of correction fail to bring about proper conduct or the student's presence causes a continuing danger to himself/herself or others. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion is used only when there is a history of misconduct, when other means of correction and/or forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to students or others. (Education Code 48900.5, 48900.6, 48915)

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

Suspended or expelled students shall be excluded from all school-related activities, including co-curricular and extracurricular activities, occurring on or off campus, during the period of the student's suspension or expulsion. Depending upon the nature of the behavior at issue, suspended or expelled students may also be excluded from extracurricular athletic activities for a longer period of time as described within the District's High School and Middle School Athlete Parent Handbooks specific to student use of tobacco products, drugs, alcohol, and performance enhancing drugs.

Upon request from the student, parents, legal guardian or person holding educational rights, the teacher will provide the suspended student with classwork, tests and homework that the student would otherwise have been assigned so that the student does not unnecessarily fall behind academically.

District staff shall enforce the rules concerning suspension and expulsion fairly, consistently, and in accordance with the District's nondiscrimination policies.

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.
(cf. 5145.3 - Nondiscrimination in District Programs and Activities)

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To correct the behavior of any student who is subject to discipline, the Superintendent or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144 Discipline and Exhibit 5144 EGUSD Discipline Guidelines. (Education Code 48900.5)

Student Due Process

The Board shall provide for the fair treatment of students facing suspension and/or 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. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Disabilities))

On-Campus Suspension Program

The Board believes that in many cases, it would be better to address the student's misconduct by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.

The Superintendent or designee may permit the establishment of a supervised in-house suspension program at one or more school sites, where feasible, which meets the requirements of law for students suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, who pose no imminent danger or threat to anyone at school, and for whom expulsion proceedings have not been initiated.

The Superintendent or designee shall 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 student; detention; student study teams or other assessment-related teams; and/or referral to school support services staff.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

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.

Whenever a student is suspended 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 suspended may

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

require that the student's parent/guardian attend a portion of a school day in that class to assist in resolving the classroom behavior problems. (Education Code 48900.1)

The Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should 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 the parent/guardian and to improve classroom behavior.

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 student. (Education Code 48900.1)

A parent/guardian who has received a written notice shall attend class as specified in the notice. Parental attendance may be required on the day the student returns to class or within one week thereafter. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1) At the meeting with the student's parent/guardian, the principal or designee shall explain the District's and school's discipline policies, including the disciplinary strategies that may be used to achieve proper student conduct.

The principal or designee shall contact any parents/guardians who do not respond to the request to attend school. 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 release time from work.

District regulations for student discipline may include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

33032.5 Hate violence reduction

35145 Open board meetings

35146 Closed sessions (re suspensions)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

35291 Rules (for government and discipline of schools)
35291.5 Rules and procedures on school discipline
48645.5 Readmission; contact with juvenile justice system
48660-48667 Community day schools
48853.5 Foster children; school placement; immunizations
48900-48927 Suspension and expulsion
48950 Speech and other communication
48980 Parental notifications
49073-49079 Privacy of student records

CIVIL CODE

47 Privileged communication
48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt
11525 Contempt
54950-54963 Ralph M. Brown Act (re closed sessions)

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 civil rights; damaging property

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

422.7 Aggravating factors for punishment

422.75 Protected classes

626.2 Entry upon campus after written notice of suspension or dismissal without 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

Bd. of Ed. v. Sacramento County Bd. of Ed. (2001) 85 Cal.App.4th 1321

John A. v. San Bernardino Sch. Dist. (1982) 33 Cal. 3d 301, 308

Fremont Union High Sch. Dist.v. Santa Clara County Bd. (1991) 235 Cal. App. 3d 1182

Garcia v. Los Angeles Bd. of Ed.(1991) 123 Cal.App.3d 807

M.N. v. Morgan Hill Unified Sch. Dist. (2018) 20 Cal.App.5th 607

ATTORNEY GENERAL OPINIONS

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

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

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

80 Ops.Cal.Atty.Gen. 85 (1997)

Management Resources:

CDE PROGRAM ADVISORIES

0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (Jan. 2014)

WEB SITES

CSBA: <http://www.csba.org>

California Attorney General's Office: <http://www.oag.ca.gov>

California Department of Education: <http://www.cde.ca.gov>

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools:

<http://www.ed.gov/about/offices/list/osdfs>

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Policy

adopted: October 10, 1984

revised: October 17, 1994

revised: September 3, 1996

revised: December 8, 2015

revised: November 13, 2018

revised: April __, 2020

ELK GROVE UNIFIED SCHOOL DISTRICT

Elk Grove, California