

**DISCIPLINE**

**I. GENERAL**

The district shall notify each student's parent/guardian at the beginning of each school year of the availability of rules of the district pertaining to student discipline. The principal of each school shall notify students of all rules pertaining to student discipline at the beginning of the school year or at the time of enrollment in the school.

**II. DEFINITIONS (Education Code 48925)**

All statutory references are to the Education Code unless otherwise noted.

A. Days

A day means a calendar day unless otherwise stated.

A school day means a day upon which the schools of the district are in session (including during summer school) or weekdays during the summer recess.

B. District

District means the San Rafael City Schools.

C. Expulsion

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel, as those terms are used in computing average daily attendance.

D. Board of Education

Board of Trustees means the Board of Education of the district. "Board of Education" and "Board" are synonymous throughout.

E. Parent

Parent means a student's parent/guardian or legal guardian.

F. Principal's Designee (Education Code 48911 (h))

A principal's designee is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with disciplinary procedures.

If there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as a

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"principal's designee" to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal's primary designee for the school year.

An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for the purposes of these regulations when both the principal and the principal's primary designee are absent from the school site. The name of the person, and the names of any person or persons designated as "principal's designee" shall be on file in the principal's office.

G. School Property (Education Code 48900(u))

School property includes, but is not limited to, electronic files and databases.

H. Student

Student may include a student's parent, guardian or legal counsel or, for a disabled student, a surrogate parent/guardian if one has been appointed for purposes of individualized education plan (IEP) meetings.

I. Student With Previously Identified Exceptional Needs

Student with previously identified exceptional needs means a student who meets the requirements of Education Code 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program.

J. Superintendent

Superintendent means the district Superintendent of Schools and/or his/her designee.

K. Suspension

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean:

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 Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from a class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or the principal's designee as provided in III.G. Removal from a particular class shall not occur more than once every five school days.

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4. Behavior management techniques called for in a disabled student's IEP.
5. Reassignment within the requirements of a disabled student's IEP.

**III. SUSPENSION (Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7)**

**A. Grounds for Suspension**

A student shall not be suspended from school or recommended for expulsion unless the Superintendent of the District or the principal of the school in which the student is enrolled determines that the student has:

1. a. Caused, attempted to cause, or threatened to cause physical injury to another person.
  - b. Willfully used force or violence upon the person of another, except in self-defense.
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of objects of this type, the student has 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.

"Firearm" means any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

Examples of dangerous objects include, but are not limited to: B.B. guns, pellet guns, air rifles, pepper spray, razors, laser pointers, brass knuckles, fist packs, nunchaku, and any object likely to cause injury to person or property that has no reasonable use at school.

3. 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.
4. 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 then 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.
5. Committed or attempted to commit robbery or extortion.

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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 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 student of his/her own prescription products.
9. Committed an obscene act or engaged in habitual profanity or vulgarity.
10. Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, defined in Health and Safety Code 11014.5.
11. 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. (See III.B. for examples of behavior that violate this subsection.) However, behavior under this subsection only constitutes grounds for a teacher's suspension from a classroom, or for suspension from school for a student in grades 4-12, inclusive. A student in kindergarten or grades 1-3 may not be suspended under this subsection, and no student may be recommended for expulsion based on a violation of this subsection.
12. Knowingly received stolen school property or private property.
13. Possessed an imitation firearm. As used in this subsection, 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.
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266(c), 286, 288, 288(a), or 289, or committed a sexual battery as defined in Penal Code 243.4.
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for purposes of either preventing that student from being a witness or retaliating against that student for being a witness, or both.
16. Committed sexual harassment as defined in Education Code 212.5. The sexual harassment 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. (Education Code 48900.2)

17. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence, as defined in subdivision (e) of section 233. (Education Code 48900.3) (See III.C. for examples of hate-motivated behavior.)

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18. Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of either school personnel or students by creating an intimidating or hostile educational environment. Harassment, threats, or intimidation include messages or information communicated through electronic means, including the use of the internet or cell phones. (Education Code 48900.4)
19. Made a terroristic threat against school official(s) or school property, or both. (Education Code 48900.7) Terroristic threats 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 \$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 was 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/her own safety or for his/her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his/her immediate family. Written threats include those communicated through electronic means.
20. Aids or abets, as defined in Penal Code 31, the infliction or attempted infliction of physical injury to another person. For this offense, a student may be suspended, but not expelled, except that a student 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 III.A.1. above and Education Code 48900, subdivision (a). (Education Code 48900(t))
21. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug SOMA. (Education Code 48900(p))
22. Engaged in, or attempted to engage in, hazing. "Hazing" means a method of initiation or preinitiation into a pupil 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.

23. Engaged in an act of bullying.

- a. "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Education Code

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Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

- i. Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property;
  - ii. Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health;
  - iii. Causing a reasonable pupil to experience substantial interference with his or her academic performance;
  - iv. Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.
- b. "Electronic act" means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to any of the following:
- i. A message, text, sound, or image;
  - ii. A post on a social network Internet Web site including, but not limited to:
    1. Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in III.A.23.a. above;
    2. Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in III.A.23.a. "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated;

3. Creating a false profile for the purpose of having one or more of the effects listed in III.A.23.a. "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile. Notwithstanding III.A.23.a., an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

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- c. "Reasonable pupil" means a pupil, including but not limited to, an exceptional needs pupil, who exercises average care, skills, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

### **B. Defiant/Disruptive Acts**

The following are examples of misconduct which is deemed to constitute violation of Education Code 48900(k) and section III. A. 11 of this policy (this list is not considered all-inclusive however):

1. Verbal abuse and/or defiance of a supervisor, teacher, administrator or other district employee engaged in the performance of his/her duties.
2. Intentionally falsifying or misrepresenting material information provided to a district employee or on district records, or altering, defacing, or destroying district records without proper authorization.
3. Gambling.
4. Hazing.
5. Immoral behavior, possession/possession for sale of pornographic materials.
6. Leaving school without permission of school authority or being in a restricted area.
7. Violation of a governmental statute, ordinance or regulation.
8. Violation of the Dress Code, Closed Campus, Computer Use Contract, or any other district Board Policy and/or school regulation.
9. An act of hate-motivated behavior.
10. Engaging in any form of communication that is obscene, libelous, or slanderous.
11. Challenging, provoking, or engaging in unlawful fighting.

12. Sexual harassment as defined in III.A.16.
13. Violation of regulations regarding possession of an electronic signaling device. (See III.D.)
14. Cheating.

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15. Violation of laws or ordinances (e.g. speeding, reckless driving or campus parking violation).

**C. Hate-motivated Behavior**

1. Hate-motivated behavior is defined as any act or attempted act to cause physical injury, emotional suffering, or property damage through intimidation, harassment, bigoted slurs or epithets, vandalism, force, or threat of force motivated in part or in whole by hostility toward the victim's real or perceived race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.
2. Acts of hate-motivated behavior include, but are not limited to, criminal acts that are statutory violations and posting or circulating demeaning jokes, leaflets, or caricatures; defacing, removing, or destroying posted materials, announcements, or memorials, and the like; distributing or posting hate-group literature and/or posters; using bigoted insults, taunts, or slurs; and possession of hate-group literature, caricatures, and the like.

**D. Electronic Signaling Devices (Education Code 48901.5)**

Pursuant to its authority under the Education Code 48901.5, the Board finds that students may possess electronic signaling devices while the students are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees. Students must ensure that the device is turned off and out of sight during instructional periods. All amplification and notification functions of such devices shall remain in the "off" position during instructional periods. No student is prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of a student and use of which is limited for purposes related to the health of the students.

Unlawful use of an electronic signaling device may be grounds for suspension.

**E. Acts Related to School Activity or Attendance (Education Code 48900)**

No student shall be suspended or expelled for any of the acts enumerated unless the act is related to a school activity or school attendance. A student may be suspended or expelled for acts 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;

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4. During, or while going to or coming from, a school sponsored activity; or,
5. While on another school district's grounds.

**F. Truancy/Absences**

Truancy, tardiness or other absences from assigned school activities should be dealt with, to the extent feasible, by alternatives other than suspension or expulsion.

**G. Teacher Suspension (Education Code 48910)**

1. A teacher may suspend a student from class for any of the acts enumerated in III.A. for the day of the suspension and the day following.
2. The teacher shall immediately report the suspension to the principal of the school and send the student to the principal or the principal's designee for appropriate action. If the action requires the continued presence of the student at the school site, the student shall be under appropriate supervision, as defined in policies and related regulations adopted by the Board. As soon as possible, the teacher shall ask the parent/guardian of the student to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent/guardian so requests. The student shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.
3. A student suspended from a class shall not be placed in another regular class during the period of suspension. However, if the student is assigned to more than one class per day, this subsection shall apply only to other regular classes scheduled at the same time as the class from which the student was suspended.
4. A teacher may also refer a student, for any of the acts enumerated in III.A., to the principal or the principal's designee for consideration of a suspension from the school.

**H. Attendance of Suspended Child's Parent for Portion of School Day (Education Code 48900.1)**

1. A teacher who suspends a student for committing an obscene act, engaging in habitual profanity, disrupting school activities or otherwise willfully defying the valid authority of the teacher or other school personnel, may require the parent/guardian to attend a portion of a school day in his/her child's classroom. The attendance of the parent/guardian shall be limited to the class from which the student was suspended.
2. The teacher shall apply this policy uniformly to all students within the classroom.

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3. If a teacher requests a parent/guardian to attend school pursuant to this section, the principal shall send a written notice to the parent/guardian stating that attendance by the parent/guardian is pursuant to law. The notice may specify that the parent's attendance be on the day in which the student is scheduled to return to class, or within a reasonable period of time thereafter.
4. The teacher shall contact parents who do not respond to the request to attend school. The teacher shall attempt to ascertain the reason for not attending, and shall take into account reasonable factors that may prevent compliance.
5. The parents who attend school for the purpose of this policy shall meet with the school administrator or his/her designee after completing the classroom visitation and before leaving the school site.
6. This policy shall apply only to a parent/guardian who is actually living with the student.

### **I. Imposition of Suspension (Education Code 48900.5)**

1. Suspension, including supervised suspension, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a student, including an individual with previously identified exceptional needs, may be suspended, subject to Section 1415 of Title 20 of the United States Code, upon the first offense if the principal or Superintendent determines that the student violated subdivision 1, 2, 3, 4, or 5 of section III.A. or upon a first offense for any of the reasons enumerated in section III.A. if the principal or Superintendent determines that the student's presence causes a danger to persons or property.
2. Other means of correction include, but are not limited to, the following:
  - a. A conference between school personnel, the pupil's parent or guardian, and the pupil;

- b. Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling;
- c. Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents;
- d. Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan

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adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 USC 794(a));

- e. Enrollment in a program for teaching prosocial behavior or anger management;
- f. Participation in a restorative justice program;
- g. A positive behavior support approach with tiered interventions that occur during the schoolday on campus;
- h. After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including but not limited to, those operated in collaboration with local parent and community groups;
- i. Any of the alternatives described in III.O, below.

### **J. Maximum Number of Days of Suspension**

1. Length of Suspension. (Education Code 48911) The principal of the school, the principal's designee, or the Superintendent may suspend a student from the school for any of the reasons enumerated in III.A. for no more than five consecutive school days.
2. Maximum Number of Days Per Year. (Education Code 48903) Except as provided in III.K.9. or III.L., the total number of days for which a student may be suspended from school shall not exceed 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 class, or a continuation education school or class, in which case the total number of school days for which the student may be suspended shall not exceed 30 school days in any school year.

Before a student with a disability is suspended for more than 10 days in a school year (consecutively or cumulatively), refer to the procedures set forth in section IV.C. - Discipline of Students with Disabilities.

#### **K. Principal and Superintendent Suspension (Education Code 48911)**

1. Immediate Suspension. (Education Code 48915(c)) The principal or Superintendent shall immediately suspend, and recommend for expulsion, a student that he or she determines has committed any of the following acts:
  - a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by

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the principal or the principal's designee. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of the district. The act of possessing an imitation firearm, as defined in subdivision (m) of section 48900, is not an offense for which suspension or expulsion is mandatory, but it is an offense for which suspension, or expulsion pursuant to 48915(e), may be reimposed. (See definition of "firearm" in III.A.2.)

- b. Brandishing a knife at another person. "Knife" means (1) any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, (2) a weapon with a blade fitted primarily for stabbing, (3) a weapon with a blade longer than 3-1/2 inches, (4) a folding knife with a blade that locks into place, or (5) a razor with an unguarded blade.
    - c. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
    - d. Committing or attempting to commit a sexual assault as defined in III.A.14 or committing a sexual battery as defined in III.A.14.
    - e. Possession of an explosive. Explosive means a destructive device as described in 18 USC 921.
2. Pre-suspension Conference. Suspension by the principal, the principal's designee, or the Superintendent shall be preceded by an informal conference conducted by the principal or the principal's designee or the Superintendent between the student, and, whenever practicable, the teacher or supervisor or school employee who referred the student to the principal or the principal's designee or the Superintendent. At the conference the student shall be informed of the reason(s) for the disciplinary action and the evidence against him

or her and shall be given the opportunity to present his/her version and evidence in his/her defense. (Education Code 48911(b))

3. **Emergency Suspension.** A principal or the principal's designee or the Superintendent may suspend a student without affording the student an opportunity for a conference only if the principal or the principal's designee or the Superintendent determines that an emergency situation exists. Emergency situation, as used in this section, means a situation determined by the principal, principal's designee or the Superintendent to constitute a clear and present danger to the life, safety, or health of students or school personnel. If a student is suspended without a conference before suspension, both the parent/guardian and the student shall be notified of the student's right to a conference, and 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 this right or is physically unable to attend for any reason, including, but not limited to incarceration or

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hospitalization. The conference shall then be held as soon as the student is physically able to return to school for the conference. (Education Code 48911(c))

4. **Notice to Parent.** At the time of suspension, a school employee shall make a reasonable effort to contact the student's parent/guardian in person or by telephone. If a student is suspended from school, the parent/guardian shall be notified in writing of the suspension and of the specific offense(s) committed. (Education Code 48911(d))
5. **Report of Suspension.** A school employee shall report the suspension of the student, including the cause for the suspension, to the Superintendent. For the reporting of expulsion or suspension offenses to the State Department of Education, each school shall specifically identify, by offense committed, in all appropriate official records of a student, each suspension or expulsion of that student. (Education Code 48900.8)
6. **Parent's Duty.** The parent/guardian of any student shall respond without delay to any request from school officials to attend a conference regarding his/her child's behavior.
7. **Suspension Meeting.** (Education Code 48914) Upon the parent's request, the Superintendent may meet with the parent/guardian of a suspended student to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension. The Superintendent may review records related to the suspension, consider the parent's objections and/or comments, discuss the suspension with the responsible administrator(s), and thereafter, take any action he/she deems appropriate and communicate that action to the parents and the school administrators.
8. **Notification of Law Enforcement Authorities.** (Education Code 48902)

- a. The principal or the principal's designee shall, before the suspension of any student, notify the appropriate law enforcement authorities of any acts of the student that may violate Penal Code 245 (relating to assault with a deadly weapon or force likely to produce great bodily injury).
- b. The principal or designee shall, within one school day after suspension of any student, notify by telephone or other appropriate method the appropriate law enforcement authorities of any act of the student that may violate III.A.3. or III.A.4. (relating to controlled substances, alcohol, intoxicants, and look-alike substances).
- c. The principal or designee shall notify appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code 626.9 or 626.10 (relating to possession of weapons on campus), even if the student has not been suspended or expelled.

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- d. The principal or designee shall report any act specified in III. K.1. committed by a student or non-student on a school site to the city police or county sheriff with jurisdiction over the school.
- e. A principal or designee reporting a known or suspected act described in III.K.8.a. or III.K.8.b. is not civilly or criminally liable for the report unless it is proven that the report was false and that the person making the report knew it was false or made the report with reckless disregard for the truth.
- f. The principal of a school or the principal's designee reporting a criminal act committed by a school age individual with exceptional needs shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the student's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974. (20 USC 1232(g))

#### 9. Extension of Suspension.

- a. (Education Code 48911(g)) In a case where expulsion from any school or suspension for the balance of the semester from continuation school is being processed by the Board, the Superintendent or other person designated by the Superintendent in writing may extend the suspension until such time as the Board district has rendered a decision in the action. Where the expulsion of a student with previously identified exceptional needs is being processed by the Board, refer to the procedures set forth in section IV.C. - Discipline of Students with Disabilities.

- b. If a student or the student's parent/guardian has requested a meeting to discuss the original suspension, the Superintendent may determine at that meeting whether to extend the suspension.
- c. An extension may be imposed only if the Superintendent or designee has determined, following a meeting to which the student and the student's parent/guardian are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.
- d. If the pupil is a foster child, as defined in Section 48853.5, the Superintendent or designee, including, but not limited to, the educational liaison for the District, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting.

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### **L. Suspension by the Board (Education Code 48912)**

1. Length of Suspension. The Board may suspend a student from school for any of the acts enumerated in III.A. for any number of school days within the limits prescribed in III.J.
2. Closed Session. The Board of the district shall, unless the student's parent/guardian requests, in writing, at least five days prior to the date of the hearing that the hearing be conducted at a public meeting, hold closed sessions when the Board is considering the suspension of, disciplinary action against, or any other action except expulsion in connection with, any student, if a public hearing upon that question would lead to the giving out of information concerning a student which would be in violation of Article 5 (commencing with Education Code 49073) of Chapter 6.5.
3. Notice to Parents of Closed Session. Before calling a closed session to consider these matters, the Board shall, in writing, by registered or certified mail or by personal service, notify the student and the student's parent, or the student if the student is an adult, of the intent of the Board to call and hold a closed session. Unless the student or the student's parent/guardian shall, in writing, within 48 hours after receipt of the written notice of the Board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the Board in closed session. If a written request is served upon the Clerk or Secretary of the Board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting, shall be in closed session.

4. Suspension from Continuation School. (Education Code 48912.5) The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in III.A. occurred.

#### **M. Supervised Suspension Classrooms (Education Code 48911.1)**

1. A student who has been suspended for any of the reasons enumerated in section III.A. may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the student poses no imminent danger or threat to the campus, students, or staff, or if an action to expel the student has not been initiated.
2. Students assigned to a supervised suspension classroom shall be separated from other students at the school site for the period of suspension in a separate classroom, building, or site for students under suspension.
3. Each student is responsible for contacting his/her teacher(s) to receive assignments to be

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completed while the student is assigned to the classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no classroom work is assigned, the person supervising the classroom shall assign schoolwork.

4. At the time the student is assigned to the supervised suspension classroom, a school employee shall notify, in person or by telephone, the student's parent/guardian. Whenever a student is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the student's parent/guardian.
5. This section does not place any limitation on the district's ability to transfer a student to an opportunity school or class or a continuation education school or class.

#### **N. Student Work Assignments**

The teacher of any class from which a student is suspended shall provide to the student all assignments and tests the student would otherwise miss while suspended. The teacher may require the suspended student to complete any assignments and tests missed during the suspension. (Education Code 48913)

#### **O. Alternatives to Suspension ~~Community Service Alternative~~ (Education Code 48900.6, 48900.9)**

As an alternative to, or as a part of, suspension, the Board, the Superintendent, the principal or the principal's designee may require the student to perform community service on school grounds, or in the community with written permission of the parent/guardian, during the student's non-school hours. The community service may include, but is not limited to, work performed on school grounds or in the community in the areas of outdoor beautification,

campus or community betterment, and teacher, peer, or youth assistance programs, except in instances where suspension is required by the Education Code. This section does not apply if the student has been suspended pending expulsion. However, this section does apply if the expulsion is not implemented or is suspended by stipulation or other administrative action.

A student who is a victim of, witness to, or otherwise affected by an act of bullying may be referred to a school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate. A student who has engaged in an act of bullying also may be referred to a school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program.

#### **P. Involuntary Transfer to Continuation Schools (Education Code 48432.5)**

1. A student who commits an action enumerated in III.A., or has been habitually truant or irregular in attendance from instruction upon which he or she is lawfully required to attend, may be involuntarily transferred to continuation school.
2. Involuntary transfer to a continuation school shall be imposed only when other means fail to bring about student improvement, provided that a student may be involuntarily transferred the first time he or she commits an act enumerated in section III.A. if the principal determines that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.
3. Before implementing the transfer, the district shall send the student and parent/guardian written notice of the opportunity to request a meeting with the Superintendent prior to the

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#### **DISCIPLINE (continued)**

transfer.

4. At the meeting, the student or the student's parents will be informed of the specific facts and reasons for the proposed transfer and will have the opportunity to inspect all documents relied upon, question any evidence and witnesses presented, and present evidence on the student's behalf.
5. None of the persons involved in making the final decision may be on the staff of the school in which the student is currently enrolled. The district's decision to transfer will be in writing, stating the facts and reasons for the decision, and sent to the student and the student's parents. It shall indicate the process for review of the decision specified in III.P.6.

6. Involuntary transfers to a continuation school will be reviewed annually by the Superintendent at the request of the student. The review will take place in a meeting where the student may present information supporting the request to return to the regular program.

#### **Q. Exclusion from District Property/Activities**

During the period of a suspension, the student shall not enter, or come onto, any district property or grounds, and shall not attend any district or school sponsored activities or events.

#### **R. Removal of Suspension Record**

1. A student with senior standing who has a record of one prior suspension may submit a written request to the Superintendent to remove from the student's official school file the record of that suspension, unless that suspension was for any of the acts in IV.A.1. or in IV.A.2.a.b.d. or e.
2. The Superintendent shall consult with school personnel and may take any action she or he deems appropriate in connection with reviewing the request. If, in the sole determination of the Superintendent, removal will promote the educational interests of the student and the district and not adversely affect the district, the Superintendent may remove the record of the suspension. The Superintendent's decision shall be final and not subject to review.
3. The Superintendent shall notify the student or parent/guardian and the principal of the school attended by the student of the Superintendent's determination in writing within 30 days of receipt of the request.
4. If the Superintendent grants the request, the record of the suspension shall be sealed and placed in a separate file in the principal's office.

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#### **DISCIPLINE (continued)**

5. The principal or the principal's designee may refer to the precipitating conduct and/or suspension in the event that the student commits another act prior to his/her graduation which is grounds for discipline.
6. Upon graduation, the record of the student's suspension will be taken from the sealed file and destroyed as directed by the Board, pursuant to applicable law and regulations.(cf. 5125 - Student Records)
7. Students and parents shall receive annual notice of this provision from the school.

#### **S. Exclusion from Graduation**

A student who has been suspended during the second semester of his/her senior year for any offense may be denied participation in the graduation ceremony or graduation-related activities.

Upon request, the Superintendent or designee may meet with the parent/guardian to discuss the principal's decision. The Superintendent may review all records related to the decision and take any action he/she deems appropriate and communicate that action to the parents and the school principal.

#### **T. Notification of Teacher of Acts of Misconduct by Student**

1. Student Misconduct. The district shall inform the teacher(s) of a student who has engaged in, or is reasonably suspected to have engaged in acts described above in III.A.1-7 and 9-20. The teacher(s) shall keep such information confidential. (Education Code 49079)
2. Transfer Students. If a student transfers into the district, the district shall inform the teacher(s) of the student that the student was suspended or expelled from his/her previous school district and the acts that resulted in the suspension or expulsion. The teacher will keep such information confidential. (Education Code 48201)

#### **U. Alternatives to Suspension or Expulsion**

For a student subject to discipline under III.A. above and Education Code 48900, the Superintendent or principal may use his or her discretion to provide alternatives to suspension or expulsion, that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in III.I. (Education Code 48900(v))

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### **DISCIPLINE (continued)**

#### **IV. EXPULSION**

##### **A. Recommendation for Expulsion (Education Code 48900, 48915)**

1. Mandatory Recommendation. (Education Code 48915(c)) A principal or the Superintendent shall immediately suspend, and shall recommend to the Board to expel, a student that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
  - a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by

the principal or the principal's designee. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of the district. (See definition of "firearm" in III.A.2)

- b. Brandishing a knife at another person. (See definition of "knife" in III.K.1.b)
  - c. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
  - d. Committing or attempting to commit a sexual assault as defined in III.A.14 or committing a sexual battery as defined in III.A.14.
  - e. Possession of an explosive. Explosive means destructive device as described in 18 USC 921.
2. Mandatory Recommendation Unless Inappropriate. (Education Code 48915(a)) A principal or the Superintendent shall recommend a student's expulsion for any of the following acts committed at school or at a school activity off school grounds, unless the principal or Superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:
- a. Causing serious physical injury to another person, except in self-defense.
  - b. Possession of any knife or other dangerous object of no reasonable use to the student. (See definition of "knife" in III.k.1.b.)
  - c. Unlawful possession of any controlled substance listed in Chapter 2 of Division 10 of the Health and Safety Code 11053, except for either of the following: 1) the first offense of the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis; or 2) the possession of over-the-counter medication for

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**DISCIPLINE (continued)**

use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

- d. Robbery or extortion.
- e. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee.

If the principal or superintendent of schools makes a determination as described in IV.A.2.a., he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

3. Discretionary Recommendation. (Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7)

Except as provided in IV.A.1. or IV.A.2., the principal or Superintendent may recommend a student's expulsion for the student's commission of any of the acts set forth in III.A.

## **B. Board Action on Expulsion Recommendation**

1. Mandatory Expulsion. (Education Code 48915(d)) The Board shall order a student expelled upon finding that the student committed an act listed in IV.A.1. (relating to firearms, brandishing a knife, sale of controlled substances, sexual assault and battery, and possession of an explosive).
2. Discretionary Expulsion. (Education Code 48915(b), (e)) The Board may order a student expelled upon finding that the student committed an act listed in IV.A.2., or III.A., that is not also listed in IV.A.1., and either of the following:
  - a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
  - b. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.
3. Educational Program Requirements for Expelled Students. After ordering the expulsion of a student, the Board shall address the educational program requirements as stated in IV.F.

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## **DISCIPLINE (continued)**

### **C. Discipline of Students with Disabilities**

A student with disabilities pursuant to the Individuals with Disabilities Education Improvement Act (IDEA 2004) is subject to the same grounds for suspension and expulsion that apply to students without disabilities.

1. Conditions for Disciplinary Change of Placement. A disciplinary change of placement always includes a recommendation for expulsion and an extension of a student's suspension pending an expulsion decision, if the extension of suspension exceeds a total of 10 school days of suspension. A disciplinary change in placement may also include suspensions during the school year in excess of 10 school days, as determined at the

discretion of the school or district personnel. If a student with a disability is recommended for a disciplinary change of placement such as expulsion, the district must take the following steps:

a. Manifestation Determination.

- i. A manifestation determination must be made if school personnel seek to impose a suspension beyond 10 school days in a school year that will change the student's placement, or if school personnel have recommended an expulsion.
- ii. Within 10 school days of the decision to change the placement of a student with a disability for disciplinary reasons, the district, the parent, and relevant members of the student's IEP Team (as determined by the district and parent) shall review all relevant information in the student's file, including:
  1. The student's IEP;
  2. Any teacher observations;
  3. Any relevant information provided by the parents.
- iii. During the review of all relevant information, the district, the parent, and relevant members of the student's IEP Team must determine:
  1. If the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability;
  2. Or if the conduct in question was the direct result of the district's failure to implement the IEP.
- iv. Not a Manifestation of the Student's Disability. If it is determined that the conduct in question was not a manifestation of the student's disability, the disciplinary

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**DISCIPLINE (continued)**

action may proceed following the same process used for general education students. In the case of a recommendation for expulsion, see paragraph C.1.c.iv., below, regarding placement during the pendency of an expulsion proceeding.

- v. Is a Manifestation of the Student's Disability. If it is determined that the conduct in question was a manifestation of the student's disability, the disciplinary action may not proceed. Instead, the student's IEP Team shall do one of the following:
  1. If the student did not have a behavior intervention plan in place prior to the misconduct:

- a. Conduct a functional behavioral assessment of the student;
  - b. Implement a behavioral intervention plan for the student; and
  - c. Return the student to the placement from which the student was removed (except as provided in paragraph (b), below), or obtain agreement from the parent/ guardian to change the student's placement as part of the behavior intervention plan.
2. If the student did have a behavior intervention plan in place prior to the misconduct:
    - a. Review the behavior intervention plan;
    - b. Modify the plan, as necessary, to address the behavior; and
    - c. Return the student to the placement from which the student was removed (except as provided in paragraph ((b), below), or obtain agreement from the parent/ guardian and the district to change the student's placement as part of the modification of the behavior intervention plan.

b. Interim Alternative Educational Setting

- i. School personnel may remove a student to an interim alternative educational setting determined by the student's IEP Team for not more than 45 school days regardless of whether the behavior is determined to be a manifestation of the student's disability if the student commits one or more of the following offenses:
  1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of any State or local educational agency;

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**DISCIPLINE (continued)**

Weapon is defined as:

A weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, but not including a pocket knife with a blade of less than 2 1/2 inches in length.

2. Knowingly possesses or uses illegal drugs or sells a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency;

Illegal Drug is defined as:

A controlled substance but does not include a controlled substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority of the Controlled Substances Act or any other provision of Federal law.

Controlled Substance is defined as:

A drug or other substance identified under schedule I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 USC 812(c)).

3. Inflicts serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a State or local educational agency.

Serious Bodily Injury is defined as:

Bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

- c. Extension of Suspension. When a student with a disability is recommended for expulsion, the student's initial suspension may be extended in the following manner:
  - i. The Superintendent or designee initially may extend the student's suspension so that the total number of days suspended does not exceed 10 consecutive school days. For example, if the student is initially suspended for five school days, the student's suspension typically may be extended for up to an additional five school days for a total suspension of 10 school days.

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## **DISCIPLINE (continued)**

- ii. The extension of suspension may only be imposed if the Superintendent or designee has determined, following a meeting to which the student and the student's parent/guardian are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.
- iii. If a student or the student's parent/guardian requests a meeting to discuss the original suspension, the Superintendent or designee may determine at that meeting whether to extend the suspension.

- iv. If it is determined that the student's misconduct was not a manifestation of his/her disability, the student shall:
  1. Be returned to the placement from which the student was initially suspended;
  2. Be placed in, or continue in, an interim alternative educational placement as set forth in C.1.b., above, for not more than 45 school days; or
  3. Be placed in an interim alternative educational setting determined by the student's IEP Team pending the decision on the recommendation for expulsion if the student's suspension is extended.
- d. Free, Appropriate Public Education. If a student with a disability is removed from the current placement for more than 10 days, the student shall continue to receive educational services so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the student's IEP goals. The student shall also receive, as appropriate, a functional behavioral assessment, behavioral intervention services and modifications, that are designed to address the misconduct so that it does not recur.
- e. Appeal. If the parent/guardian of a student with a disability disagrees with the manifestation determination or with a decision regarding the student's placement, the parent/guardian may request a due process hearing. If the district believes that maintaining a student's current placement is substantially likely to result in injury to the student or to others, the district may request an expedited due process hearing. While the parent/guardian or the district's due process hearing request is pending resolution, the student shall remain in his/her interim alternative educational placement until a decision by the hearing officer, or until the expiration of the disciplinary placement, whichever occurs first, or unless the parent/guardian and the district agree otherwise.
- f. Notification. Not later than the date on which the decision to take disciplinary action that will result in a change in placement is made, the district shall notify the parents of that decision, and notify the parents of their special education procedural safeguards.

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**DISCIPLINE (continued)**

- g. Student with a Disability Defined. For purposes of these regulations, the use of the term "student with a disability" refers to a student with exceptional needs who is eligible for special education services pursuant to the Individuals with Disabilities Education Improvement Act (IDEA 2004) (14 USC 1415 and following).

**D. Notification of Law Enforcement Authorities (Education Code 48902)**

1. The principal or designee shall, before the expulsion of any student, notify the appropriate law enforcement authorities of any acts of the student which may violate

Penal Code 245 (relating to assault with a deadly weapon or force likely to produce great bodily injury). This requirement applies only when notification was not made prior to the suspension of the student.

2. The principal or designee shall, within one school day after expulsion of any student, notify by telephone or other appropriate method the appropriate law enforcement authorities of any act of the student which may violate III.A.3. or III.A.4. (relating to controlled substances, alcohol, intoxicants, and look-alike substances). This requirement applies only when notification was not made within one school day after suspension of the student.
3. The principal or designee shall notify appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code 626.9 or 626.10 (relating to possession of weapons on campus), even if the student has not been suspended or expelled.
4. The principal or designee shall report any act specified in III.K.1 committed by a student or non-student on a school site to the city police or county sheriff with jurisdiction over the school.
5. A principal or designee reporting a known or suspected act described in IV.D.1. or IV.D.2. is not civilly or criminally liable for the report unless it is proven that the report was false and that the person making the report knew that it was false or made the report with reckless disregard for the truth.
6. The principal of a school or the principal's designee reporting a criminal act committed by a school age individual with exceptional needs shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the student's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 USC 1232(g)).

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## **DISCIPLINE (continued)**

### **E. Procedure for Expulsion (Education Code 48918) (IV.E.17 for special procedures for cases of sexual assault and battery.)**

1. Extension of Suspension Pending Expulsion Hearing. In any case in which the Superintendent has determined to extend the suspension of a student who has been recommended for expulsion, the procedure in III.K.9. shall be followed.

2. Timelines for Hearing. The student shall be entitled to a hearing to determine whether he or she should be expelled. An expulsion hearing shall be held within 30 school days after the date the principal or the Superintendent determines that the student has committed any of the acts enumerated in III.A., unless the student requests, in writing, that the hearing be postponed. The student shall be entitled to one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the Board.

If compliance by the Board with the time requirements for the conducting of an expulsion hearing under this section is impracticable, the Superintendent may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. Timelines may also be extended over the summer break, as allowed by law. Reasons for the extension of the time for the hearing shall be included as part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

3. Written Notice of Hearing. Written notice of the hearing shall be forwarded to the student at least 10 calendar days prior to the date of the hearing. If the decision to recommend expulsion is for a discretionary act, and the student is a foster youth, notice will also be provided to the student's attorney and an appropriate representative of the county welfare agency; if the student is homeless, notice will also be provided to the District's liaison for homeless youth. The notice shall include:
  - a. The date and place of the hearing.
  - b. A statement of the specific facts and charges upon which the proposed expulsion is based.
  - c. A copy of the disciplinary rules of the district that relate to the alleged violation.
  - d. Notice of the parent's or student's obligation to notify a subsequent school district of the student's expulsion status, pursuant to subdivision (b) of section 48915.1. (See IV.K.)
  - e. Notice of the opportunity for the student or the student's parent/guardian to appear in person or employ and be represented by legal counsel or by a nonattorney advisor, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence

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## **DISCIPLINE (continued)**

presented, and to present oral and documentary evidence on the student's behalf, including witnesses.

4. Student's Right to Waive Hearing. The student and the student's parent/guardian shall be afforded the opportunity, at their discretion, to waive any and all of their due process rights relative to an expulsion recommendation, including, but not limited to, the right to a hearing to determine whether the student committed the offense(s) with which she or he has been charged. If the student and/or the student's parent/guardian requests a waiver of any of their rights, the consequences of such a waiver shall be thoroughly explained to them by the district prior to entering into a waiver agreement.
5. Hearing in Closed Session. The Board shall conduct a hearing to consider the expulsion of a student in a session closed to the public, unless the student's parent/guardian requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled.

If the Board admits any other person to a closed deliberation session, the parent/guardian of the student, the student and the counsel of the student shall also be allowed to attend the closed deliberations.

6. Alternative to Board Hearing. In lieu of conducting an expulsion hearing itself, the Board may contract with the County hearing officer, or with the California Office of Administrative Hearings, for a hearing officer to conduct the hearing. The Board may also appoint an impartial administrative panel of three or more certificated persons, none of whom are members of the Board or employed on the staff of the school in which the student is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section. If the hearing officer or administrative panel admits any other person to a closed deliberation session, the parent/guardian of the student, the student, and the counsel of the student shall also be allowed to attend the closed deliberations.

7. Evidence at the Hearing.

- a. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
- b. No evidence to expel shall be based solely upon hearsay evidence; however, the Board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an

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**DISCIPLINE (continued)**

unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn

declarations which shall be examined only by the Board or the hearing officer or administrative panel.

Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness shall be made available to the student.

- c. If the student, parent, or representative of the student fails to object at the hearing that these rules are not being properly followed, or that any other law or requirement of due process is not being followed, the objections shall be deemed waived.
- d. Any testimony provided by a student witness in an expulsion hearing conducted is expressly deemed to be a communication protected by Civil Code 47(b).

#### 8. Subpoena Power.

- a. Before the hearing has commenced, the Board may issue subpoenas at the request of either the Superintendent or the student, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the Board or the hearing officer or administrative panel may, upon request of either the County Superintendent of Schools or the Superintendent's designee or the student, issue subpoenas. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985, 1985.1, and 1985.2.

Enforcement of subpoenas shall be done in accordance with Government Code 11455.2.

- b. Any objection raised by the Superintendent or the student 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. Any decision by the Board in response to an objection to the issuance of subpoenas shall be final and binding.
- c. If the Board, hearing officer, or administrative panel determines, in accordance with the procedure set forth in IV.E.7., that a percipient witness would be subject to an 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 provided for in IV.E.7.
- d. Service of process shall be extended to all parts of the State and shall be served in accordance with Code of Civil Procedure 1987. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political

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**DISCIPLINE (continued)**

subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

9. Record of the Hearing. A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.
10. Recommendation by Panel or Hearing Officer.
  - a. Within three school days after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the student to the Board.
  - b. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the student immediately shall be reinstated and permitted to return to a the classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the Superintendent after consultation with district personnel, including the student's teachers, and the student's parent. The decision not to recommend expulsion shall be final. from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the student requests another school placement in writing. Before the placement decision is made by the parent, guardian, or responsible adult, the superintendent of schools or the superintendent's designee shall consult with school district personnel, including the student's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the student in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the student committed any of the acts specified in subdivision (c) of Education Code section 48915, but does not recommend expulsion, the student shall be immediately reinstated and may be referred to his or her prior school or another comprehensive school or, pursuant to applicable procedures, a continuation school. The decision not to recommend expulsion shall be final.
  - c. If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing.
11. Board of Trustees Decision.
  - a. A decision of the Board whether to expel a student shall be made within 10 schooldays after the conclusion of the hearing, unless the student requests in writing

that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel or if the Board does not meet on a weekly basis, the Board shall make its decision about a student's expulsion within 40 school days after the date of the student's removal from his/her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the Superintendent, unless the student requests in writing that the decision be postponed.

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### **DISCIPLINE (continued)**

- b. The decision of the Board to expel a student shall be based upon substantial evidence, relevant to the charges and showing that the student committed any of the acts enumerated in III.A., adduced at the expulsion hearing or hearings.
  - c. If the Board accepts the recommendation of a hearing officer or administrative panel calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the Board may order.
12. Rehabilitation Plan. The Board shall recommend a plan of rehabilitation for the student 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.
13. Suspension of Expulsion. (Education Code 48917)
- a. Order of Probation. The Board, upon voting to expel a student, 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 student to a school, class, or program that is deemed appropriate for the rehabilitation of the student. The Board shall apply the criteria for suspending the enforcement of an expulsion order equally to all students. The rehabilitation program to which the student is assigned may provide for the involvement of the student's parent/guardian in his/her child's education in ways that are specified in the rehabilitation program. A parent's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. During the period of the suspension of the expulsion order, the student shall be deemed to be on probationary status.
  - b. Revocation of Probation. The Board may revoke the suspension of an expulsion order under this section if the student commits any of the acts enumerated in section III.A.

or violates any of the district's rules and regulations governing student conduct. When the Board revokes the suspension of an expulsion order, the student may be expelled under the terms of the original expulsion order without an additional hearing before the Board.

- c. Reinstatement After Successful Probation Period.
  - i. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a school of the district and may also order that any or all

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### **DISCIPLINE (continued)**

records of the expulsion proceedings be expunged for a student of senior standing. The student may submit a written request for the expungement of records to the Superintendent.

- ii. The Superintendent shall consult with school personnel and may take any action she or he deems appropriate in connection with reviewing the request. If, in the sole determination of the Superintendent, removal will promote the educational interests of the student and the district and not adversely affect the district, the Superintendent may expunge the record of the expulsion.
- iii. The Superintendent or designee shall notify the student or parent/guardian and the principal of the school attended by the student of the Superintendent's determination in writing within 30 days of receipt of the request.
- iv. If the Superintendent grants the request, the record of the expulsion shall be sealed and placed in a separate file in the principal's office.
- v. The principal or the principal's designee may refer to the precipitating conduct and suspension in the event that the student commits another act prior to his/her graduation which is grounds for discipline.
- vi. Upon graduation, the record of the student's expulsion will be taken from the sealed file and destroyed as directed by the Board, pursuant to applicable law and regulations.

(cf. 3580 - District Records)

- vii. If the Superintendent denies the student's request for expungement, the Superintendent shall inform the student, in writing, of the decision, the reasons therefore, and of the student's right to appeal the Superintendent's decision to the Board. The Superintendent shall also inform the student that an appeal must be in writing and must be submitted to the district office within two weeks of the date of the Superintendent's decision.

viii. The appeal will be heard at the next Board meeting following receipt of the appeal, unless the Board meeting is within seven work days of receipt of the student's appeal. In such case, the appeal will be heard at the following Board meeting.

ix. The Board will meet with the student, his parent, and the Superintendent in closed session. The Board will review all written materials related to the request for expungement. The student or the parent/guardian may explain why the record

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## **DISCIPLINE (continued)**

should be expunged, and the Superintendent may explain why she or he denied expungement.

x. The Board shall make a decision no later than the meeting following the meeting at which the appeal was heard. The Board shall notify the student of its decision in writing no later than two work days following this meeting. The Board's decision regarding the request is final.

d. Appeal Time Lines Not Affected. A decision of the 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. Any appeal shall be filed within 30 days of the original vote of the Board.

14. Final Action in Public Session. Whether an expulsion hearing is conducted by the Board or before a hearing officer or administrative panel, final action to expel a student shall be taken only by the Board in a public session.

15. Written Notice of Expulsion Decision. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the Superintendent to the student and shall be accompanied by:

a. Notice of the right to appeal the expulsion to the County Board of Education. (See IV.H.)

b. Notice of the education alternative placement to be provided to the student during the time of expulsion. (See IV.F.)

c. Notice of the parent/guardian or student's obligation under Education Code 48915.1(b), upon the student's enrollment in a new school district, to inform that district of the expulsion. (See IV.K.)

d. A description of the procedure for requesting readmission. (See IV.G.)

16. Record of Expulsion. The Board shall maintain a record of each expulsion including the cause therefore. Records of expulsions shall be a nonprivileged, disclosable public record. The expulsion order and the cause(s) therefore shall be recorded in the student's mandatory interim record and shall be forwarded to any school in which the student subsequently enrolls upon receipt of a request from the admitting school for the student's school records.

17. Special Procedures for Cases of Sexual Assault or Battery. (Education Code 48918, 48918.5)

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**DISCIPLINE (continued)**

- a. In a hearing in which a student is alleged to have committed or attempted to commit a sexual assault, or to have committed a sexual battery, as defined in III.A.14, a complaining witness shall be given five days' notice prior to being called to testify, and shall be entitled to have up to two adult support persons present during his/her testimony. Prior to a complaining witness testifying, support person(s) shall be admonished that the hearing is confidential.
- b. A complaining witness shall have the right to have his/her testimony heard in a closed session if the hearing is open to the public, when testifying at a public meeting would threaten serious psychological harm to the complaining witness and 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 means of closed-circuit television.
- c. At the time the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his/her right to:
  - i. Receive five days notice of his/her scheduled testimony at the hearing;
  - ii. Have up to two adult support persons of his/her choosing present at the hearing at the time he or she testifies;
  - iii. Have the hearing closed during the time he or she testifies.
- d. The expulsion hearing may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness.
- e. The district shall provide a non-threatening environment for a complaining witness in order to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints.

The district shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In 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 or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person

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### **DISCIPLINE (continued)**

conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.

- f. Evidence of specific instances of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances exist requiring the evidence be heard. Before such a determination is made, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of such 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 the complaining witness is not admissible for any purpose.
- g. Complaining witnesses and accused students will be advised immediately after any allegation is made of conduct violating III.A.14. to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

### **F. Educational Program Requirements for Expelled Students (Education Code 48915(d), (f); 48915.2; 48916.1)**

- 1. At the time an expulsion is ordered, the Board shall ensure that an educational program is provided to the expelled student for the period of the expulsion.
- 2. In order to provide the educational program required by this subsection, the Board shall refer the student to a program of study that meets all of the following conditions:
  - a. Is appropriately prepared to accommodate students who exhibit discipline problems.
  - b. Is not provided at a comprehensive high school.
  - c. Is not housed at the school site attended by the student at the time of the suspension.

Notwithstanding this subsection, with respect to a student expelled for a violation of any of III.A.6. through III.A.15., pursuant to the procedure in IV.B.2, if the County Superintendent of Schools certifies that an alternative program of study is not available at a site away from a comprehensive high school, and that the only option for placement is at another comprehensive high school, the student may be referred to a program of study that is provided at a comprehensive high school.

3. Notwithstanding the above, a student expelled for any of the offenses listed in IV.A.1 or IV.A.2. 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 Education Code 48645.1, or a

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### **DISCIPLINE (continued)**

community day school pursuant to Article 3 (commencing with section Education Code 48660) of Chapter 4 of Part 27.

4. The program provided pursuant to this section is the only program required to be provided to expelled students as determined by the Board.

### **G. Readmission After Expulsion (Education Code 48916)**

1. Duration of Expulsion. An expulsion order shall remain in effect until the Board orders the readmission of a student. The Board shall consider the student for readmission to the school last attended by the student or to any school maintained by the district.
  - a. For students expelled for acts other than those listed in IV.A.1.:
    - i. If expulsion is ordered during the school year, the date set for the Board to review the student for readmission shall be no later than the last day of the semester following the semester in which the expulsion occurred.
    - ii. If the expulsion occurred during the summer session, the date set for the Board to review the student for readmission shall be no later than the last day of the semester following the summer session in which the expulsion occurred.
  - b. For students expelled for acts listed in IV.A.1., the date set for the Board to review the student for readmission shall be no later than one calendar year from the date the expulsion occurred.
  - c. The Board may set an earlier date for review for readmission on a case-by-case basis.
2. Procedure for Readmission

- a. On or before the date established by the Board when the student will be reviewed for readmission, the student may submit documentation in support of admission to the Superintendent. The request must be in writing. The student should describe his/her compliance with the rehabilitation plan recommended at the time of the expulsion order. Failure to submit documentation or otherwise participate in the review for readmission may be deemed a violation of the student's rehabilitation plan.
- b. The Superintendent will review the written documentation in support of readmission, the accompanying information, and may request additional information as needed. The Superintendent also may schedule a conference with the student and the student's parent/guardian to review the written documentation in support of readmission.

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**DISCIPLINE (continued)**

- c. The Superintendent will determine whether the student should be readmitted, and will give the student and/or the student's parent/guardian written notice of the decision.
- d. If the Superintendent denies the student's request for readmission, the Superintendent shall inform the student, in writing, of the decision, the reasons therefore, and of the student's right to appeal the Superintendent's decision to the Board. The Superintendent shall also inform the student that an appeal must be in writing and must be submitted to the district office within two weeks of the date of the Superintendent's decision.
- e. The appeal will be heard at the next Board meeting following receipt of the appeal, unless the Board meeting is within seven work days of receipt of the student's appeal. In such case, the appeal will be heard at the following Board meeting.
- f. The Board will meet with the student, his parent, and the Superintendent in closed session. The Board will review all written materials related to the request for readmission. The student or the parent/guardian may explain why the student should be readmitted, and the Superintendent may explain why she or he denied readmission.
- g. The Board shall make a decision no later than the meeting following the meeting at which the appeal was heard. The Board shall notify the student of its decision in writing no later than two work days following this meeting. The Board's decision regarding the request is final. The Board shall readmit the student, unless the Board makes a finding that the student has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other students or employees of the district.
- h. If the Board denies the readmission of an expelled student pursuant to IV.G.2.g., the Board shall make a determination either to continue the placement of the student in

the alternative educational program initially selected for the student during the period of the expulsion order or to place the student in another program that may include, but need not be limited to, serving expelled students, including placement in a county community school.

- i. The Board shall provide written notice to the expelled student and the student's parent/guardian describing the reasons for denying the student readmittance into the regular district program. The written notice shall also include the determination of the educational program for the expelled student pursuant to IV.G.2.h. The expelled student shall enroll in that educational program unless the parent/guardian of the student elects to enroll the student in another school district.

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## **DISCIPLINE (continued)**

### **H. Appeal to the County Board of Education**

Time for Appeal. (Education Code 48919) If a student is expelled from school, the student or the student's parent/guardian may, within 30 days following the decision of the Board to expel, file an appeal to the County Board of Education which shall hold a hearing thereon and render its decision.

The period within which an appeal is to be filed shall be determined from the date the Board votes to expel even if enforcement of the expulsion is suspended and the student is placed on probation. A student who fails to appeal the original action of the Board within the prescribed time may not subsequently appeal a decision of the Board to revoke probation and impose the original order of expulsion.

Procedures for appeal to the County Board are set forth in Education Code 48919-48924 and in the Marin County Board of Education Rules and Regulations.

### **I. Community Service Alternative. (Education Code 48900.6)**

As an alternative to, or as a part of, expulsion, the Board, the Superintendent, the principal or designee may require the student to perform community service on school grounds, or in the community with written permission of the parent/guardian during the student's non-school hours. "Community service" may include, but is not limited to, work performed on school grounds, or in the community, in the areas of outdoor beautification, campus or community betterment, and teacher, peer, or youth assistance programs. This section does not apply if the student has been suspended pending expulsion. However, this section does apply if the expulsion is not implemented or is suspended by stipulation or other administrative action.

### **J. Graduating Students.**

A student who has been recommended to the Board for expulsion may not participate in his/her graduation ceremony or graduation-related activities scheduled prior to the completion of the expulsion process, without the prior approval of the Superintendent. The Superintendent may deny the student's participation only upon first determining that the presence of the student at the ceremony or related activities would cause a danger to persons or property or be disruptive.

**K. Notification of Subsequent School District. (Education Code 48915.1(b))**

When a student is expelled from the district for an offense other than those listed in Education Code 48915(a), the student's parent, or the student if emancipated or legally of age, shall inform any subsequent school district, upon enrollment, of the student's status with the district. If this information is not provided to the subsequent school district and the subsequent district later determines the student was expelled from this district, the lack of

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**DISCIPLINE (continued)**

compliance with this section shall be recorded and discussed in the hearing required for enrollment, described in V.

**V. Enrollment of Student Expelled from Another District (Education Code 48201, 48915.1 and 48915.2.)**

**A. Required Hearing**

1. If the Board receives a request from: (1) an individual who is expelled from another school district for an act other than those described in Education Code 48915(a) or (c), or (2) an individual who has been expelled from another school district for an act described in Education Code 48915(a) or (c) after expiration of the term of expulsion, for enrollment in a district school, the Board shall hold a hearing to determine whether the individual poses a continuing danger either to other students or employees of the district.
2. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of students as described in IV.
3. The district shall request information from the school district in which the student was last enrolled regarding acts committed that resulted in a suspension, a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request must respond with all deliberate speed but in no event later than five working days from the date of receipt of the request.

**B. Options of the Board**

The following options may be considered by the Board when making its determination whether to enroll an individual who has been expelled from another school district:

1. Deny enrollment.
2. Permit enrollment.
3. Permit conditional enrollment in a regular school program or other educational program.

The Board may decide to deny enrollment after a determination has been made that the individual poses a potential danger to either the students or employees of the district. In the case of an individual expelled from another

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## **DISCIPLINE (continued)**

school district for an act described in Education Code 48915(a) or (c), the Board may permit the individual to enroll in the district after the term of the expulsion only if it determines the student does not pose a danger to either the students or employees of the district and either: (1) he or she has established legal residence in the district pursuant to Education Code 48200, or (2) he or she is enrolled in the district pursuant to an interdistrict attendance agreement pursuant to Education Code 46600.

### **C. Required Enrollment**

Notwithstanding any other provision of law, the Board, 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 Education Code 48915(a) or (c) does not pose a danger to either the students or employees of the district, shall permit the individual to enroll in a school in the district during the term of expulsion, provided that she or he, subsequent to the expulsion, either (1) has established legal residence in the district pursuant to Education Code 48200, or (2) has enrolled in the district pursuant to an interdistrict attendance agreement executed between the affected school districts pursuant to Education Code 46600.

## **VI. Notification of Parent or Relative of Release of Student to Police Officer; Procedure for Victims of Suspected Child Abuse or Neglect (Education Code 48906)**

### **A. Release of Minor to Peace Officer - Notification to Parent/Guardian**

When the principal or other school official releases a minor student to a peace officer and the peace officer removes the minor from the school premises, the school official shall take immediate steps to notify the parent/guardian or responsible relative of the minor regarding the release of the minor to the officer, and the place to which the minor is reportedly being taken.

B. Removal When Minor is Victim of Child Abuse or Neglect

When a school official releases a minor to the custody of a peace officer as a victim of suspected child abuse, as defined in Penal Code 11165.6 or for neglect pursuant to Welfare and Institutions Code 305, the school official shall not notify the parent. In such a case, the school official shall provide the peace officer with the address and telephone number of the minor's parent. The peace officer is then responsible for taking steps to notify the parent/guardian or responsible relative that the minor is in custody and the place where she or he is being held.

Regulation  
approved: December 8, 2008  
revised: September 22, 2014

**SAN RAFAEL CITY SCHOOL DISTRICT**  
San Rafael, California