

Morgan Hill Unified School District

Three Year Expulsion Plan

Between the

Morgan Hill Unified District

and

The Santa Clara County Office of Education

2021-2023

For the implementation of Education Code 48916.1

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Morgan Hill Unified School District Plan Educational Alternatives for Expelled Students

The following plan describes the Morgan Hill Unified School District's policy and procedures for ensuring that students expelled from the District have appropriate educational options during the term of expulsion. The information in this document reflects a triennial update of the 2018 plan and is formatted to respond to the requirements and recommendations put forth by the California Department of Education.

Describe current program offerings, interventions, and administrative referrals or placements.

The Morgan Hill Unified School District (MHUSD) implemented and practices a Multi-Tiered System of Support (MTSS) for prevention and early intervention related to student conduct that could potentially lead to expulsion.

All schools in the District have been or are being trained in Positive Behavioral Intervention and Supports (PBIS). The PBIS coaching, technical assistance and support to site implementation teams are supported by the Student Services department.

MHUSD participates in a Santa Clara County initiative called School Linked Services (SLS) and Prevention Early Intervention (PEI). This initiative has helped the District develop a robust system of mental health services provided on campus by our community partners. The District's School Linked Services Coordinator serves as the point person for counseling referrals, manages enrollment in family-centered programs such as the Positive Parenting Program, links students and families to material resources such as food, clothing and school supplies and connects them with services such as low or no-cost health exams and immunizations.

The District partners with three local counseling agencies to provide a variety of mental health services to students: Community Solutions, Rebekah Children's Services and Discovery Counseling Center. Prevention and Early Intervention (PEI) Program (provided by Community Solutions and Rebekah) is an evidence-based program that incorporates skill-building for students and families to promote a positive connection to school and to foster academic success that is provided at all sites. In addition, these community based organizations (CBOs) also provide counseling programs to middle and high school aged students in our schools with high poverty rates. Discovery Counseling provides Marriage and Family Therapist interns and trainees to every campus in the District for individual and group counseling support. Also, we have partnered with the South County Youth Task Force and are able to offer a variety of services including restorative justice support/training, mentorship, wrap services and parent supports.

Because of the extreme cost of housing, Morgan Hill has a high rate of students experiencing homelessness as defined by the McKinney-Vento Act. The District has developed a team of certificated and classified employees to provide direct service to homeless, foster, and low income students in grades 6 - 12. The Coordinated Advocacy and Resources for Education (CARE) team members work directly with students and families to connect them with resources and services, as well as provide academic counseling, mentoring and basic behavioral coaching to help students meet their goals.

The District has built capacity in restorative practices and restorative justice (RJ) as part of our MTSS focus. School administrators incorporate these into their PBIS implementation. Staff members have received training in restorative circles and have been able to bring this practice to their school site. We will continue to expand on restorative training for all staff and students.

As part of our trauma-informed practice, we are in our third year of implementation of Kognito, a trauma-informed practices platform that provides simulations around suicide prevention, de-escalation, and trauma sensitive issues. In addition, all certificated staff TK - 12 have engaged in professional development, led by professional trainers from one of our community partners.

The District participates in a collaborative group known as the South County Youth Task Force (SCYTF). In partnership between the cities of Morgan Hill and Gilroy, this group is comprised of representatives from the police department, school district, and city government, along with a wide variety of local youth-focused agencies such as the YMCA, juvenile probation, the faith community, gang-intervention specialists and the District Attorney's office. The SCYTF serves as a forum to identify students with a higher-risk and need for intervention and connects them with available resources that may not be a part of a standard school program.

MHUSD employs a full-time School Resource Officer (SRO) who is a member of NASRO (the National Association of School Resource Officers), trained in Restorative Justice and committed to a community policing philosophy that is predicated on positive relationships with students. The SRO often helps school staff intervene when student conduct poses a safety risk.

When a student is recommended for expulsion and goes through the due process, there are a range of placement options that the District considers, including:

- Expulsion, suspended order, with placements on the same school campus, Educational Code 48917 (a).
- Expulsion, suspended order, with placement on a different school campus within the District, Educational Code 48917 (a).

- Expulsion with subsequent transfer to another district.
- Expulsion with referral to Santa Clara County Office of Education Alternative Education Department Community School., Education Code 1981.
- Elementary Schools- Identify a partner district that will accept expulsion referrals.

Identify gaps in educational services to expelled youth.

Mental Health and Transitional Supports

This year has been a year like no other due to the pandemic, and with that we have seen an influx of mental health needs from students and families.

Strategy: We have increased our CBO partnerships to include more mentorship opportunities for youth. All students who are readmitted to the district are assigned a CBO mentor depending on their needs. In addition, we have created a transition protocol for students who are being readmitted into the district. The district and the CBO partners are working to expand their contract language to allow for more fluid transition with existing clients. In addition, we have increased our home visit processes and protocols to reach out to families. Furthermore, we have expanded programs to help ensure that the family is also consulted and engaged in the process. We have increased articulation with County partners to have transition meetings/conversations when a new youth is coming to them, or a youth is being readmitted to the district.

Transportation

Transportation to alternative schools for expelled youth continues to be a challenge.

Strategy: Santa Clara County Office of Education's satellite campuses in Gilroy and San Jose have made it possible for students to access alternative programs with less transportation challenges. Students that couldn't access those campuses were served with the Distance Learning option for 2020-2021 due to the pandemic; without this option, some students will continue to have difficulty accessing alternative programs due to lack of transportation.

Costs for Program

Every school year, the District allocates funding to educate a student who may be recommended for expulsion. The cost of one student seat allocation in the County program has nearly tripled, so the number of alternative education seats that the District reserves annually has fluctuated between 5-15.

Strategy: To be proactive and allocate resources to provide an education and resources to a student that may be recommended for an expulsion, funds each year are allocated per seat and any remaining funds are not reimbursed to the District at the end of the school year.

Identify alternative placements for pupils who are expelled but fail to meet the terms of their rehabilitation plan.

A student who has been expelled from the District under Education Code 48900 or 48915 and who has failed to find success in a variety of placement options within the county-operated Community School programs is then referred to the District's Department of Student Services.

The District will work with the County Office of Education to identify the best placement for the expelled student who has been dropped from a county program. A meeting with all stakeholders (parent, student, county staff, and the District) may be held to explore other alternatives such as:

- Placement in another county Community School or program
- Independent Study through a county Community School
- Placement in a probation-ordered educational program such as Edge
- Recommendation for a residential program such as Grizzly Youth Academy
- Recommendation for an employment-training program such as Job Corps
- A more restrictive educational placement in accordance with the student's IEP

Plan for Expelled Students who commit subsequent violations.

Students who have been readmitted to the District after an expulsion return to regular student status. They can be assigned to a support program at their school of residence to assist in their transition from a community school to a comprehensive secondary school. If a student commits an expellable offense after readmission, and all alternative means of correction have been exhausted, the student may be referred for expulsion again.

Plan for Providing Educational Services To All Expelled Students In Santa Clara County

California Education Code Section 48926 states "each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of school districts within the county shall develop a plan for providing education services to all expelled pupils in that county." This section of California Education Code also states that "The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those gaps.

The 20 elementary districts, 5 high school districts and 6 unified school districts of Santa Clara County provide services to around 266,256 students at 395 school sites spread over an area of 1,315 square miles. Santa Clara County recognized the need for a continuum of educational services for all students, including expelled students long before the 1995 legislation mandated educational placements for expelled students. This Santa Clara County Plan for Educational Services for Expelled Students provides the description of the part of that continuum of

services that relates directly to expelled students. A series of legislative bills in 1995, and since 1995, have created new challenges that have resulted in adjustments and refinements to this Santa Clara continuum of educational services over the past ten years. This 2021 triennial update of the Santa Clara Countywide Plan for Expelled Students will highlight these changes to the educational landscape for this student population.

California Education Code 48916.1 states “At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion...” Every Santa Clara County school district governing board will refer each expelled student to an appropriate educational placement for the period of expulsion.

The educational placement will be determined on an individual basis by the school district’s governing board based on:

- 1) seriousness of the offense,
- 2) available educational alternatives
- 3) other related factors

County level alternatives for expelled students will remain available to most expelled students. Any expelled student who requires, and is entitled to, transportation to the county-level educational placement may have that transportation provided by the district of residence. District level alternatives for expelled students will vary from one district to the next depending on the characteristics of that district. The list of educational alternatives that exist for each of the 31 Santa Clara County districts is identified in that district’s sub-plan, included as a part of the total countywide plan.

A district sub-plan has been developed and board approved, if necessary, for every school district in Santa Clara County. Those district sub-plans are included in this countywide plan to provide the complete “Plan for Providing Educational Services to all Expelled Students in Santa Clara County.” Any substantive changes to district sub-plans during the period between triennial updates receive approvals by the school district governing board at the time the change is made.

Each district sub-plan includes:

- 1) A list of existing educational services to expelled students
- 2) Gaps in educational services to expelled students
- 3) Strategies for filling those gaps and
- 4) Alternative placements for students who fail community day school placements (if offered in your district).

Existing Educational Alternatives for Expelled Students

All educational alternatives provided by California's school districts are not available to all expelled students. Seriousness of offense, location of offense and grade level of the student all has the potential to restrict the district level educational alternatives available to the student during the period of expulsion. Students expelled for any of the offenses listed in Subdivisions (a) or (c) of Section 48915 of the California Education Code shall not be permitted to enroll in any district-operated program during the period of expulsion unless it is a community day school (California Education Code 48915.2).

All expelled students shall be referred to an educational placement that is:

- 1) Not provided at a comprehensive middle, junior or senior high school or any elementary school and
- 2) not housed at the school site attended by the student at the time of the offense (California Education Code Section 48915).

If the expelled student is in grades K-6, the educational placement for the student shall not be merged or combined with educational programs offered to students in grades 7-12 (California Education Code Section 48916.1). In addition to the above listed requirements, such factors as district size, district level alternatives, county level alternatives and district philosophy can impact the determination by a district board of education of what educational alternatives are appropriate for the students who are expelled.

Alternatives available for expelled pupils include the following:

- Suspended expulsion with placement at a different district campus (within or outside of the district)
- Home teaching
- Non-public school placement
- District Community Day School (if available)
- Independent Study Program (if student/family agrees)

The Santa Clara County Office of Education works collaboratively with all districts to ensure timely communication and responsiveness to our students' needs. The transition office serves as a hub for all student referrals and interacts with district liaisons on a regular basis. Monthly district liaison meetings are hosted to address professional development needs and service coordination.

Countywide Identified Gaps

Difficulty offering a range of alternative programs due to district size.

The size of the districts in Santa Clara County varies greatly. There is everything from small elementary districts with one school and 44 students to larger school districts with 57 schools and over 32,000 students. Some districts are located in rural areas and others in the urban center of the county. This variance makes it difficult to offer the range of alternatives to all districts.

Strategy: The strategy for addressing this problem is to maintain a county community school program that is committed to providing educational services to the school districts in the county and that employs a variety of instructional strategies, including those that are capable of overcoming obstacles associated with providing educational services to rural, often isolated settings.

Students who commit an expellable offense during an expulsion period may have limited alternatives available for a secondary placement.

Strategy: We address this challenge by committing to provide educational services to students regardless of repeated offenses. These services may be in locations where distance becomes a serious obstacle. One strategy is that students may be returned to their school district of residence to provide an educational program placement, another strategy that has been employed at the county-level programs is to provide intense training to educational staff that improves their skills at defusing potentially volatile situations with students and decreasing the likelihood of a problem escalating to an expellable level. In addition, Independent Studies/Blended Learning opportunities may be offered to serve expelled youth within the community school program.

Students in grades K-5 who are expelled do not have the same educational options available as do their counterparts in grades 7-12.

Students in grades K-5 are expelled at a much lower rate than students in grades 6-12 and therefore there aren't many educational options available. These two factors, together with the requirement that educational services for students in grades K-5 cannot be merged or combined with services to students in grades 6-12, make it very difficult to identify an educational placement for the expelled student who is in grades K-6.

Strategy: To address this problem, a cooperative plan is developed for maintaining a multi-district educational alternative capable of serving this smaller, more isolated student population between school districts. The Santa Clara County Office of Education works with districts to ensure communication and collaboration occurs to ensure that expelled youth have their educational needs addressed. A gap of under-funding for K-5 services in county community schools is a barrier. It is important to work with the California Department of Education to

increase funding to establish and maintain an educational alternative for expelled students in grades K-5.

Transportation and funding continue to be gaps for our countywide Expelled Students Plan.

Many of our families cannot access the educational opportunities because of a lack of finances. Funding for community schools continues to be low and requires the Santa Clara County Office of Education operate on a chargeback system to our participating districts.

Strategy: To ensure that a community school program is being provided, the allotments have increased significantly to allow proper staffing at the community school to serve expelled youth. It is difficult to anticipate the need county wide and therefore, the allotments allow the county to start the school year with at least a small community school program. We will continue to explore opportunities for additional funding to address these gaps.

Districts continue to focus on disproportionate representation of minority students in interventions.

Strategy: School and district administration, along with teachers at MHUSD, have had opportunities to attend and facilitate Equity and inclusion professional development to ensure culturally responsive campuses. We have allocated funds in our new Local Control and Accountability Plan to continue to work in this area.

Morgan Hill Unified Board Policies that are specific to expelled youth.

[Morgan Hill USD](#) | BP 5144.1 Students

Suspension And Expulsion/Due Process

The Governing Board desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. [5131](#) - Conduct)

(cf. [5131.1](#) - Bus Conduct)

(cf. [5131.2](#) - Bullying)

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

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs, including, but not limited to, the following: (Education Code [48900\(s\)](#))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
(cf. [5112.5](#) - Open/Closed Campus)
4. During, going to, or coming from a school-sponsored activity

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

(cf. [0410](#) - Nondiscrimination in District Programs and Activities)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code [48900\(a\)-\(e\)](#), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct.

(Education Code [48900.5](#), [48900.6](#))

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. [5144](#) - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. [6164.2](#) - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal. Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

(cf. [5113](#) - Absences and Excuses)

(cf. [5113.1](#) - Chronic Absence and Truancy)

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

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code [48900](#) and [48900.2](#), but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

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

Authority to Expel.

A student may be expelled only by the Board. (Education Code [48918\(j\)](#))

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code [48915](#))

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (cf. [5131.7](#) - Weapons and Dangerous Instruments)
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code [11053-11058](#)
5. Committing or attempting to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committing a sexual battery as defined in Penal Code [243.4](#)
6. Possessing an explosive as defined in 18 USC [921](#)

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code [48915\(b\)](#) and (e))

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in an open session of a Board meeting.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation. (Education Code [48917](#))

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code [48911](#), [48915](#), [48915.5](#), [48918](#)) (cf. [5119](#) - Students Expelled from Other Districts)

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code [48900.8](#) and [48916.1](#), including, but not

limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

The report to the Board, the Superintendent or designee shall disaggregate data on suspensions and expulsions by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, students with disabilities, foster youth, and homeless students. Based on the data, the Board shall address any identified disparities in the imposition of student discipline and shall determine whether and how the district is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. [0460](#) - Local Control and Accountability Plan)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

8239.1 Prohibition against expulsion of preschool student

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

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

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7961 Gun-free schools

UNITED STATES CODE, TITLE 42

11432-11435 Education of homeless children and youths

COURT DECISIONS

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

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

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

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

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

Management Resources:

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

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

WEB SITES

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

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

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

U.S. Department of Education, Office for Civil

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

U.S. Department of Education, Office of Safe and Healthy

Students: <http://www2.ed.gov/about/offices/list/oese/osh>

Policy MORGAN HILL UNIFIED SCHOOL DISTRICT

adopted: November 5, 2019 Morgan Hill, California

[Morgan Hill USD](#) | AR 5144.1 Students

Suspension and Expulsion/Due Process

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes.

However, suspension does not mean any of the following: (Education Code [48925](#))

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students

3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code [48910](#)

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code [48925](#))

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code [35291](#), [48900.1](#), [48980](#))

(cf. [5144](#) - Discipline)

(cf. [5145.6](#) - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

(cf. [5144.2](#) - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code [48900](#)(a) and (t))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code [48900](#)(b))

(cf. [5131](#) - Conduct)

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind (Education Code [48900](#)(c))

(cf. [3513.4](#) - Drug and Alcohol Free Schools)

(cf. [5131.6](#) - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code [11053-11058](#), alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code [48900](#)(d))

5. Committed or attempted to commit robbery or extortion (Education Code [48900](#)(e))

6. Caused or attempted to cause damage to school property or private property (Education Code [48900](#)(f))

7. Stole or attempted to steal school property or private property (Education Code [48900](#)(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code [48900\(h\)](#))
(cf. [5131.62](#) - Tobacco)
9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code [48900\(i\)](#))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code [11014.5](#) (Education Code [48900\(j\)](#))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code [48900\(k\)](#)) Pursuant to Education Code [48900\(k\)](#), except as otherwise provided in Education Code [48910](#), students in grades K-3 must not be suspended for disruption of school activities or willful defiance of school authority, and students in grades K-12 must not be expelled on these grounds.
(cf. [5131.4](#) - Student Disturbances)
12. Knowingly received stolen school property or private property (Education Code [48900\(l\)](#))
13. Possessed an imitation firearm (Education Code [48900\(m\)](#))
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. (Education Code [48900\(m\)](#))
14. Committed or attempted to commit a sexual assault as defined in Penal Code [261](#), [266c](#), [286](#), [288](#), [288a](#), or 289, or committed a sexual battery as defined in Penal Code [243.4](#) (Education Code [48900\(n\)](#))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code [48900\(o\)](#))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code [48900\(p\)](#))
17. Engaged in, or attempted to engage in, hazing (Education Code [48900\(q\)](#))
Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code [48900\(q\)](#))
18. Engaged in an act of bullying (Education Code [48900\(r\)](#))
Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a

substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code [48900\(r\)](#))

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code [48900.2](#), [48900.3](#), or 48900.4 and below in items #1-3 of "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political, or scientific value or that involves athletic events or school-sanctioned activities.

Electronic act means the creation or transmission originated on or off the school site 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: (Education Code [48900\(r\)](#))

- a. A message, text, sound, video, or image
- b. A post on a social network Internet web site, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

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

(Education Code [48900\(r\)](#))

(cf. 1114 - District-Sponsored Social Media)

(cf. [5131.2](#) - Bullying)

(cf. [6163.4](#) - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. [6164.6](#) - Identification and Education under Section 504)

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code [31](#) (Education Code [48900\(t\)](#))

20. Made terrorist threats against school officials and/or school property (Education Code [48900.7](#))

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property

damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code [48900.7](#))

Additional Grounds for Suspension and Expulsion: Grades 4-12

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

(Education Code [48900\(k\)](#))

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

1. Committed sexual harassment as defined in Education Code [212.5](#) (Education Code [48900.2](#))

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code [212.5](#), [48900.2](#))

(cf. [5145.7](#) - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code [233](#) (Education Code [48900.3](#))

Hate violence means any act punishable under Penal Code [422.6](#), [422.7](#), or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code [233](#); Penal Code [422.55](#))

(cf. [5145.9](#) - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code [48900.4](#))

(cf. [5145.3](#) - Nondiscrimination/Harassment)

Suspension from Class by a Teacher

A teacher may suspend a student, including a grade K-3 student, from class for the remainder of the day and the following day for disruption, willful defiance, or any of the other acts specified in Education Code [48900](#) and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above. (Education Code [48910](#))

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be

appropriately supervised during the class periods from which he/she has been suspended. (Education Code [48910](#))

As soon as possible after the teacher decides to suspend the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code [48910](#))

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code [48910](#))

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was suspended. (Education Code [48910](#))

The teacher of any class from which a student is suspended may require the student to complete any assignments and tests missed during the removal. (Education Code [48913](#))

Suspension by Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in the Board policy under "Authority to Expel" and for which he/she is required to recommend expulsion. (Education Code [48915\(c\)](#))

The Superintendent, principal, or designee may impose a suspension for a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code [48900.5](#))

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct. (Education Code [48900.5](#))

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

(Education Code [48900.5](#))

(cf. [5125](#) - Student Records)

Length of Suspension

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code [48911](#))

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code [48903](#), [48911](#), [48912](#))

(cf. [6184](#) - Continuation Education)

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code [48911](#))

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the suspension as required pursuant to Education Code [48900.5](#), and the evidence against him/her, and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code [48911](#))

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code [48911](#))

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code [48911](#))

3. Notice to Parents/Guardians: At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall also be notified in writing of the suspension. (Education Code [48911](#))

This notice shall state the specific offense committed by the student. (Education Code [48900.8](#))

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may request a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code [48914](#))

If school officials request to meet with the parent/guardian, the notice may state that the law requires the parent/guardian to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code [48911](#))

5. Extension of Suspension: If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision, provided the following requirements are followed: (Education Code [48911](#))

a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension.

b. The Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code [48911](#))

c. If the student involved is a foster youth, the Superintendent or designee shall notify the district liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code [48853.5](#), [48911](#), [48918.1](#))

(cf. [6173.1](#) - Education for Foster Youth)

d. If the student involved is a homeless child or youth, the Superintendent or designee shall notify the district liaison for homeless students. (Education Code [48918.1](#))

(cf. [6173](#) - Education for Homeless Children)

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

Suspension by the Board

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code [48912](#))

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester. The suspension shall meet the requirements of Education Code [48915](#). (Education Code [48912.5](#))

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information that would violate a student's right to privacy under Education Code [49073-49079](#). (Education Code [35146](#), [48912](#))
(cf. [9321](#) - Closed Session Purposes and Agendas)

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code [35146](#), [48912](#))

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code [48911.1](#))

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code [48911.1](#))

Superintendent or Principal's Authority to Recommend Expulsion

Unless the Superintendent or principal determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code [48915](#))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code [11053-11058](#), except for (a) the first offense for the possession of not more than one ounce of

marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician

4. Robbery or extortion

5. Assault or battery, as defined in Penal Code [240](#) and [242](#), upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code [48915](#))

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code [48918\(a\)](#))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code [48918\(a\)](#))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code [48918\(a\)](#))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code [48925](#). Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code [48918\(a\)](#))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code [48918\(a\)](#))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code [48918](#).

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

A stipulated expulsion agreed to by the student and his/her parent/guardian shall be effective upon approval by the Board.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code [48918.5](#))

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code [48918.5](#))

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

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code [48918.5](#))

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code [48900.8](#), [48918\(b\)](#))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of district disciplinary rules which relate to the alleged violation
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code [48915.1](#), to provide information about the student's status in the district to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code [48915\(a\)](#) or (c).

(cf. [5119](#) - Students Expelled from Other Districts)

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Nonattorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing

7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the Superintendent or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code [48918.1](#))

If the student facing expulsion is a homeless student, the Superintendent or designee shall also send notice of the hearing to the district liaison for homeless students at least 10 days prior to the hearing. (Education Code [48918.1](#))

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code [48918.1](#))

Alternative Expulsion Hearing:

Administrative Panel

The Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code [48918](#))

A hearing conducted by administrative panel are as specified below in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code [48918](#)(a) and (d))

Conduct of Expulsion Hearing

1. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code [48918](#)(g))
2. Subpoenas: Before commencing a student expulsion hearing, the Administrative Panel may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Administrative Panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure [1985-1985.2](#) and enforced in accordance with Government Code [11455.20](#). (Education Code [48918](#)(i))

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Administrative Panel. The Administrative Panel's decision in response to such an objection shall be final and binding. (Education Code [48918](#)(i))

If Administrative Panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be

compelled to testify by means of a sworn declaration as described in item #4 below.

(Education Code [48918\(i\)](#))

3. Presentation of Evidence: Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Administrative Panel to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code [48900](#) and listed in "Grounds for Suspension and Expulsion" above.: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code [48918\(h\)](#))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code [48918\(f\)](#))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

4. Testimony by Complaining Witnesses: The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code [48918](#), [48918.5](#))

- a. Any complaining witness shall be given five days' notice before being called to testify.
- b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
- c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
- d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code [868.5](#).
- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
- g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.

(1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.

(2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.

(3) The person conducting the hearing may:

(a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness

(b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours

(c) Permit one of the support persons to accompany the complaining witness to the witness stand

The Administrative Panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated and permitted to return to the classroom instructional program from which the referral was made, unless another placement is requested in writing by the student's parent/guardian. Before the student's placement decision is made by his/her parent/guardian, the Superintendent or designee shall consult with the parent/guardian and district staff, including the student's teachers, regarding other placement options for the student in addition to the option to return to the classroom instructional program from which the student's expulsion referral was made. The decision to not recommend expulsion shall be final. (Education Code [48918](#)(e))

If expulsion is recommended, 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 presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code [48918](#)(f))

In accordance with Board policy, the Administrative Panel may recommend that the Board suspend the enforcement of the expulsion. If the Administrative Panel recommends that the Board expel a student but suspend the enforcement of the expulsion, the student shall not be reinstated and permitted to return to the classroom instructional program from which the referral was made until the Board has ruled on the recommendation. (Education Code [48917](#), [48918](#))

Final Action by the Board

Whether the expulsion hearing is conducted in an administrative panel hearing or is waived through the signing of a stipulated expulsion agreement, the final action to expel shall be taken by the Board in public. (Education Code [48918](#)(j))

(cf. [9321.1](#) - Closed Session Actions and Reports)

The Board's decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for any "mandatory recommendation and mandatory expulsion" act listed in the section "Authority to Expel" in the accompanying Board policy, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code [48916](#))

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code [48916](#))

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code [48916.5](#))

Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code [48900.8](#))
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code [48916](#))
3. Notice of the right to appeal the expulsion to the County Board (Education Code [48918](#))
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code [48918](#))
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code [48915.1](#) (Education Code [48918](#))

Decision to Suspend Expulsion Order

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

1. The student's pattern of behavior
2. The seriousness of the misconduct

3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code [48917](#))

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code [48917](#))

3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the district's rules and regulations governing student conduct. (Education Code [48917](#))

4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code [48917](#))

5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code [48917](#))

6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of his/her status with the expelling district, pursuant to Education Code [48915.1\(b\)](#). (Education Code [48918\(j\)](#))

7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code [48917](#))

Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code [48919](#))

If the student submits a written request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board, the district shall provide the student with these documents within 10 school days following the student's written request. (Education Code [48919](#))

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code [245](#). (Education Code [48902](#))

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code [48915\(c\)\(1\)](#) or (5) or Penal Code [626.9](#) and [626.10](#). (Education Code [48902](#))

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county or district law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code [48900\(c\)](#) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code [48902](#))

Placement During Expulsion

The Board shall refer expelled students to a program of study that is: (Education Code [48915](#), [48915.01](#))

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

(cf. [6158](#) - Independent Study)

(cf. [6185](#) - Community Day School)

When the placement described above is not available and when the County Superintendent so certifies, students expelled for only acts described in items #6-12 under "Grounds for Suspension and Expulsion: Grades K-12" and items #1-3 under "Additional Grounds for Suspension and Expulsion: Grades 4-12" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code [48915](#))

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code [48916.1](#))

Readmission After Expulsion

Prior to the date set by the Board for the student's readmission:

1. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
2. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session. If a

written request for open session is received from the parent/guardian or adult student, it shall be honored to the extent that privacy rights of other students are not violated.

3. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.

4. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code [48916](#))

5. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school.

6. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code [48916](#))

No student shall be denied readmission into the district based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code [48645.5](#))

Maintenance of Records

The district shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code [48900.8](#))

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code [48918\(k\)](#))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code [48915.1](#)) (cf. [5119](#) - Students Expelled from Other Districts)

Regulation MORGAN HILL UNIFIED SCHOOL DISTRICT

approved: March 29, 2019 Morgan Hill, California

[Morgan Hill USD](#) | AR 5144.2 Students

Suspension And Expulsion/Due Process (Students With Disabilities)

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Act (IDEA), 20 USC [1400-1482](#), is subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this administrative regulation.

(cf. [5144.1](#) - Suspension and Expulsion/Due Process)

Suspension

The Superintendent or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR [300.536](#). (Education Code [48903](#); 34 CFR [300.530](#))

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

(cf. [6159](#) - Individualized Education Program)

The Superintendent or designee shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A change of placement shall be deemed to have occurred under either of the following circumstances: (34 CFR [300.536](#))

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
 - a. The series of removals total more than 10 school days in a school year.
 - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
 - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If a student's removal is determined to be a change of placement as specified in items #1-2 above, or the student is suspended for more than 10 school days in the same school year, the student's IEP team shall determine the appropriate educational services. Such services shall be designed to enable the student to continue to participate in the general education curriculum in another setting, to progress toward meeting the goals set out in his/her IEP, and to address the student's behavior violation so that it does not recur. (20 USC [1412](#)(a)(1)(A); 34 CFR [300.530](#))

If the IEP of a student with a disability requires the district to provide the student with transportation, the district shall provide the student with an alternative form of transportation at no cost to him/her or to his/her parent/guardian when he/she is to be excluded from school bus transportation. (Education Code [48915.5](#))

(cf. [3541.2](#) - Transportation for Students with Disabilities)

Interim Alternative Educational Placement Due to Dangerous Behavior

The district may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC [1415](#)(k)(1)(G); 34 CFR [300.530](#))

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team.
(20 USC [1415\(k\)\(1\)\(G\)](#); 34 CFR [300.531](#))

On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))

A student who has been removed from his/her current placement because of dangerous behavior shall receive services, although in another setting, to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

Manifestation Determination

The following procedural safeguards shall apply when a student with a disability is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the district's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the student's parent/guardian shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR [300.504](#). (20 USC [1415\(k\)\(1\)\(H\)](#); 34 CFR [300.530](#))
(cf. [5145.6](#) - Parental Notifications)
(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

At the manifestation determination review, the district, the student's parent/guardian, and relevant members of the IEP team (as determined by the district and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the district's failure to implement the student's IEP, in which case the district shall take immediate steps to remedy those deficiencies

If the manifestation review team determines that either of the above conditions applies, the student's conduct shall then be determined to be a manifestation of his/her disability. (20 USC [1415\(k\)\(1\)\(E\)](#); 34 CFR [300.530](#))

3. Determination that Behavior is a Manifestation of the Student's Disability: When the student's conduct has been determined to be a manifestation of his/her disability, the IEP team shall conduct a functional behavioral assessment, unless one had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavioral intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#))

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and Superintendent or designee agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC [1415\(k\)\(1\)\(F\)](#); 34 CFR [300.530](#)) (cf. 6159.4 - Behavioral Interventions for Special Education Students)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: When it has been determined that the student's conduct was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. However, the student's IEP team shall determine services necessary to enable him/her to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

As appropriate, the student also shall receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC [1415\(k\)\(1\)\(D\)](#); 34 CFR [300.530](#))

(cf. [6158](#) - Independent Study)

(cf. 6185 - Community Day School)

Due Process Appeals

If the parent/guardian disagrees with any district decision regarding placement under 34 CFR [300.530](#) (suspension and removal for dangerous circumstances) or 34 CFR [300.531](#) (interim alternative placement), or the manifestation determination under 34 CFR [300.530\(e\)](#), he/she may appeal the decision by requesting a hearing. The district may request a hearing if the district believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a due process hearing, the requesting party shall file a complaint pursuant to 34 CFR [300.507](#) and [300.508\(a\)](#) and (b). (20 USC [1415\(k\)\(3\)](#); 34 CFR [300.532](#))

Whenever a hearing is requested as specified above, the parent/guardian or the district shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR [300.507](#), [300.508](#) (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR [300.532](#) as detailed above, the student shall remain in the interim alternative educational

setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC [1415\(k\)\(4\)](#); 34 CFR [300.533](#))

Readmission

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, an IEP team meeting shall be convened to review and, as necessary, modify the student's IEP.

Decision Not to Enforce Expulsion Order

The Governing Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities in the same manner as they are applied to all other students. (Education Code [48917](#))

Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students in AR 5144.1 - Suspension and Expulsion/Due Process.

When giving any required notification concerning a student with disabilities to any law enforcement official, the principal or designee shall require the law enforcement official to certify in writing that he/she will not disclose the student's information or records to any other person without the prior written consent of the student's parent/guardian. (Education Code [49076](#))

(cf. [5131.7](#) - Weapons and Dangerous Instruments)

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent of Schools when any special education student has been expelled or suspended for more than 10 school days. The report shall include the student's name, last known address, and the reason for the action. (Education Code [48203](#))

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been determined to be eligible for special education and related services and who has violated the district's code of student conduct may nevertheless assert any of the protections under IDEA, if the district had knowledge of the student's disability. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Knowledge means that, before the occurrence of the behavior that precipitated the disciplinary action, one of the following occurred: (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

1. The parent/guardian, in writing, has expressed concern to district supervisory or administrative personnel, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 20 USC [1414\(a\)\(1\)\(B\)](#) or 34 CFR [300.300-300.311](#).

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

3. The teacher of the student or other district personnel has expressed specific concerns directly to the district's director of special education or other supervisory district personnel about a pattern of behavior demonstrated by the student.

However, the district shall not be deemed to have knowledge of a student's disability if the student's parent/guardian has not allowed him/her to be evaluated for special education services or has refused services or, after evaluating the student pursuant to 34 CFR [300.300-300.311](#), the district determined that he/she was not an individual with a disability.

When the district is deemed to not have knowledge of a student's disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR [300.530](#), the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC [1415\(k\)\(5\)](#); 34 CFR [300.534](#))

Legal Reference:

EDUCATION CODE

[35146](#) Closed sessions re: suspensions

[35291](#) Rules of governing board

[48203](#) Reports of severance of attendance of disabled students

[48900-48925](#) Suspension and expulsion

[49076](#) Access to student records

[56000](#) Special education; legislative findings and declarations

[56320](#) Educational needs; requirements

[56321](#) Development or revision of individualized education program

[56329](#) Independent educational assessment

[56340-56347](#) Individualized education program teams

[56505](#) State hearing

PENAL CODE

[245](#) Assault with deadly weapon

[626.2](#) Entry upon campus after written notice of suspension or dismissal without permission

[626.9](#) Gun-Free School Zone Act

[626.10](#) Dirks, daggers, knives, razors, or stun guns

UNITED STATES CODE, TITLE 18

930 Weapons

1365 Serious bodily injury

UNITED STATES CODE, TITLE 20

[1412](#) State eligibility

[1415](#) Procedural safeguards

UNITED STATES CODE, TITLE 21

812 Controlled substances

UNITED STATES CODE, TITLE 29

[706](#) Definitions

[794](#) Rehabilitation Act of 1973, Section 504

CODE OF FEDERAL REGULATIONS, TITLE 34

[104.35](#) Evaluation and placement

[104.36](#) Procedural safeguards

[300.1-300.818](#) Assistance to states for the education of students with disabilities, especially:

[300.530-300.537](#) Discipline procedures

COURT DECISIONS

Schaffer v. Weast, (2005) 546 U.S. 549

Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489

M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044

Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

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

Regulation MORGAN HILL UNIFIED SCHOOL DISTRICT

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