

CLOVIS UNIFIED SCHOOL DISTRICT

STUDENTS

Rights and Responsibilities

STUDENT DISCIPLINE

The California Education Code specifies the types of disciplinary action, which may be imposed by school districts and the methods by which such disciplinary actions will be implemented.

The Board has directed the Superintendent to ensure District staff implements student disciplinary actions in compliance with Board Policy No. 5144 and appropriate statutes of the State of California. This administrative regulation contains the following:

- I Definitions of Terms Used in Matters of Student Discipline
- II Suspension, Authority to Suspend, Limitations
- III Mandatory Notifications, Law Enforcement, Parent, and Teacher
- IV Record of Student Suspension, Mandatory Interim Discipline Record
- V Jurisdiction for Discipline
- VI Prescribed Student Conduct
- VII Suspension Procedures
- VIII Involuntary Transfer to Continuation School
- IX Suspension with Recommendation for Consideration for Expulsion
- X Expulsion Procedures
- XI Student Discipline – Section 504 Students
- XII Student Discipline – Special Education Students Under IDEA

I. Definitions of Terms Used in Matters of Student Discipline

- A. “Counseling” is a discussion between a school staff member and a student regarding the student’s misconduct. Counseling may result in assignment of the student to serve detention or perform a limited number of hours of community service.
- B. “Detention” may require a student to report to a specified location, generally a classroom supervised by a credentialed staff member, during the student’s recess period or lunch period for all but adequate time to use the restroom and get a drink or eat lunch, as appropriate, or for one hour after the end of the school day. The student is required to do class work during the time spent under staff supervision. (5 CCR 307, 352, 353; Education Code 44807.5)
- C. “School probation” is a limitation placed on a student’s participation in school-sponsored activities, both during school and non-school hours.

Students who are enrolled and attending a District school and who maintain proper attendance, proper academic achievement, and proper behavior are entitled to participate in all school-sponsored activities.

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“School-sponsored activities include activities that are open to the general public and those activities restricted to students in good standing in their school of attendance.

Students who have committed a violation for which the appropriate disciplinary action is suspension with a recommendation for consideration for expulsion, or for an involuntarily transfer to a continuation school, are not in good standing. Students not in good standing are not authorized to attend any school-sponsored activity during the duration of their assignment to and attendance in a continuation school or alternative school.

- D. “Community Service” means those activities a student may be required to perform that are determined to be a benefit to the school. Community service must be performed on campus, or off campus with parental permission, during non - school hours, and includes graffiti removal, removing trash from the school grounds, and other such activities. Community service may be assigned in lieu of other disciplinary actions. (Education Code 48900.6)
- E. “Supervised Classroom” is a designated alternative for a student who is eligible for suspension from school for any of the reasons enumerated in Education Code section 48900 et seq. The student may be assigned, by the principal or designee, to a supervised classroom in lieu of suspension from school attendance, provided the student poses no imminent danger or threat to the campus, students, or staff, or if an action to expel the student has not been initiated. The student is responsible for contacting his/her teacher to receive regular classroom assignments and tests. (Education Code 48911.1)
- F. “Saturday School” is a supervised classroom maintained on Saturday.
1. Students may be authorized to attend Saturday school in lieu of suspension from school to make up class work or unexcused absences. (Education Code 48264; Board Policy No. 6176)
 2. Students who are truant from school may be involuntarily assigned to attend Saturday School to make up the days missed. (Education Code section 48264.5; Board Policy No. 6176)
- G. “Suspension” means removal of a student from ongoing instruction for adjustment purposes. (Education Code 48925)

However, suspension does not mean:

1. Reassignment to another educational program or class at the same school where the student will receive continuing instruction for the minimum day applicable to such student.
2. Referral of the student to a certificated employee designated by the principal or designee to advise students.

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3. Removal from a class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code section 48910. Removal from a particular class shall not occur more than once every five consecutive school days.
 4. Releasing the student to the custody of the parent for a portion of a school day.
 5. Behavior management techniques called for in an IEP of a student with disabilities.
 6. Reassignment within the requirements of an IEP for a student with disabilities.
- H. “Expulsion” means removal of a student from attendance in current school of attendance and referral to a program of study that meets all of the following conditions: (Education Code 48915)
1. Is appropriately prepared to accommodate students who exhibit discipline problems.
 2. Is not provided at a comprehensive middle, junior or senior high school, or at any elementary school.
 3. Is not housed at the school site attended by the student at the time of suspension.
- Expulsion does not mean involuntary transfer pursuant to Education Code section 48432.5.
- I. “Day” means a calendar day unless otherwise specifically provided.
- J. “School day” means a day upon which the schools of the District are in session (including during summer school) or weekdays during the summer recess.
- K. “Student” includes a student’s parent or guardian or legal counsel.
- L. “Principal” means the identified chief administrator of the student’s school of attendance.
- M. “Principal’s designee” is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with student disciplinary procedures. If there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as the “principal’s designee” to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal’s primary designee for one school year.
- N. “Superintendent’s designee” is any one or more District staff designated by the Board to assist with expulsion and other student discipline matters.
- O. “District” means the Clovis Unified School District.

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- P. "Governing Board" means the Governing Board of the District.
- Q. "Parent" means a student's parent or legal guardian.
- R. "School property" includes, but is not limited to, electronic files and databases. (Education Code 48900)
- S. "Firearm" means any device designed to be used as a weapon from which a projectile is expelled through a barrel by the force of any explosion or other form of combustion.

II. Suspension, Authority to Suspend, Limitations

- A. A teacher may suspend any student from the teacher's class for any of the acts listed in Education Code section 48900 for the day of the suspension and the day following. (Education Code 48910)
 - 1. A referral of a student by a teacher to a counselor or the principal's designee for misconduct does not constitute a suspension from class.
 - 2. When a teacher elects to suspend a student from class, the teacher must comply with due process procedures, including parent notifications and meetings. (See VII. Suspension Procedures.)
 - 3. The teacher shall immediately report the suspension to the principal or designee and send the student to the principal or designee for appropriate action.
 - 4. A student suspended from a class shall not be placed in another regular class during the period of suspension. However, if the student is assigned to more than one class per day, this subsection shall apply only to other regular classes scheduled at the same time as the class from which the student was suspended.
- B. The Board, Superintendent or designee, principal or designee may suspend a student from school attendance for any of the acts listed in Education Code section 48900 or Education Code section 48900.2, 48900.3, 48900.4, or 48900.7. Any suspension of a student from school attendance must comply with appropriate due process procedures. See VII. Suspension Procedures. (Education Code 48911, 48912)
 - 1. Such suspension may be for no more than five consecutive school days.
 - 2. A student may not be suspended from school attendance for a total of more than 20 school days in any school year, unless for purposes of adjustment a student enrolls or is transferred to another regular school, an opportunity school, or continuation school or class, in which case, suspension shall not exceed 30 school days in any school year.

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3. The Board may suspend a student who is attending a continuation school or class for no longer than the remainder of a semester. Such suspension must comply with appropriate due process procedures.
4. The Superintendent or designee may extend the suspension of a student, pending an administrative expulsion hearing.

III. Mandatory Notifications, Law Enforcement, Parent, and Teacher

- A. The principal or designee shall notify the appropriate law enforcement agency prior to the suspension of any student for any act of the student which may be in violation of Penal Code section 245. (Education Code 48902(a)) Penal Code section 245 pertains to assault with a deadly weapon, a firearm, an instrument other than a firearm, or by any means of force likely to produce great bodily injury.
- B. The principal or designee shall notify the appropriate law enforcement agency, within one school day after suspension for any acts of the student, which may be in violation of Education Code section 48900(c) or (d). (Education Code section 48902(b).) The principal or designee or any other person reporting a known or suspected act described in Education Code section 48902(a) or (b) is not civilly or criminally liable as a result of making any report authorized by Education Code sections 48900 - 48927 unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report. (Education Code 48902(d))
- C. The principal or designee shall notify the appropriate law enforcement agency within one school day after suspension for any acts of the student which involve possession or sale of narcotics or of a controlled substance or a violation of Penal Code section 626.9 or 616.10. Law enforcement should be notified immediately, rather than waiting until after the fact. (Education Code section 48902(c)) Penal Code sections 626.9 and 626.10 pertain to possession of any firearm, dirk, dagger, locking bladed knife with a blade 2½ inches or greater in length, or razor, or any knife with a blade of 2½ inches or greater. Such items must be confiscated and retained in custody until released to law enforcement personnel.
- D. A report must be made to a law enforcement agency of any attack, assault on, or menacing of any school employee by a student. (Education Code 44014)
- E. A report must be made to a law enforcement agency when there is a directly communicated threat by a student or any person to inflict unlawful injury upon the person or property of a District employee to keep the employee from fulfilling any official duty. (Education Code 44014, Penal Code 71)
- F. When a principal or other school official releases a student to a peace officer who is going to remove the minor student from the school premises, the principal or school official shall take immediate steps to notify the parent or responsible party of the student.

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1. Such notice will include the fact the student has been released to the officer and the location where the student is reportedly being transported.
 2. However, when a student is placed in protective custody as a victim of suspected child abuse, the protective services social worker or police officer will make the required notifications.
- G. The principal or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected to have engaged in, any acts described in Education Code section 48900 (except for Education Code section 48900(h) - possession or use of tobacco products) or Education Code section 48900.2, 48900.3, 48900.4, or 48900.7. (Education Code 49079)

A District employee who knowingly fails to provide information about a student who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in these Education Code sections is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months or by a fine not to exceed \$1000, or both.

- H. Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided and shall not be further disseminated by the teacher.
- I. A principal or designee or any other person reporting a known or suspected act described in Education Code section 48902(a) is not civilly or criminally liable as a result of making such a report unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report. (Education Code 48902(d))

IV. Record of Student Suspensions, Mandatory Interim Discipline Record

When a principal or designee determines a student is in violation of Education Code section 48900, an entry will be made on the student's mandatory interim discipline record. Such record will be maintained in the student's mandatory interim record (cumulative folder) for three years. The mandatory interim student discipline record, or a copy thereof, will be forwarded to the new school of attendance with other mandatory interim records when the student transfers to another school.

Teachers of the student and designated supervisory staff will have a right to review the student's mandatory interim discipline record.

V. Jurisdiction for Discipline

A student may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the Superintendent or principal or occurring within any other school district.

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A student may be suspended or expelled for acts which are enumerated in Education Code sections 48900, 48900.3, 48900.4, and 48900.7 and are related to school activity or attendance that occur at any time, including but not limited to, any of the following: (Education Code 48900)

- A. While on school grounds or the grounds of another school district.
- B. While going to or coming from school.
- C. During the lunch period, whether on or off campus.
- D. During, or while going to or coming from, a school-sponsored activity or under the supervision of District staff.

VI. Prescribed Student Conduct

The Legislature intends that alternatives to suspensions or expulsion be imposed against any student who is truant, tardy, or otherwise absent from school activities. (Education Code 48900) A student may not be suspended from school or recommended for expulsion unless the Superintendent or designee or the principal or designee in which the student is enrolled determines that the student has:

- 1. 48900(a)(1): Caused, attempted to cause, or threatened to cause physical injury to another person.
- 2. 48900(a)(2): Willfully used force or violence upon the person of another, except in self-defense.
- 3. 48900(b): 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, which is concurred in by the principal or designee. "Dangerous objects" include, but are not limited to, B.B. and pellet guns, air rifles, air soft guns, pepper spray, razors, brass knuckles, fist packs, nunchaku, and any other object likely to cause injury to a person or property that has no reasonable use at school.
- 4. 48900(c): Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- 5. 48900(d): Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and

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represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

6. 48900(e): Committed or attempted to commit robbery or extortion.
7. 48900(f): Caused or attempted to cause damage to school property or private property.
8. 48900(g): Stolen or attempted to steal school property or private property.
9. 48900(h): Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a student of his or her own prescription products.
10. 48900(i): Committed an obscene act or engaged in habitual profanity or vulgarity.
11. 48900(j): Unlawfully possessed, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code section 11014.5.
12. 48900(k): Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties as specified. Defiant and disruptive student behavior includes, but is not limited to, the examples listed in Board Policy No. 5144. Any suspension or expulsion for the acts enumerated under Education Code section 48900(k) is subject to the provisions in Education Code section 48900(k)(2) – (4).
13. 48900(l): Knowingly received stolen school property or private property.
14. 48900(m): Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica or 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.
15. 48900(n): Committed or attempted to commit a sexual assault as defined in Penal Code section 261, 266c, 286, 287, 288, or 289 or former Education Code section 288a or committed a sexual battery as defined in Penal Code section 243.4.
16. 48900(o): Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that student from being a witness or retaliating against that student for being a witness, or both.
17. 48900(p): Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
18. 48900(q): Engaged in, or attempted to engage in, hazing.

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19. 48900(r): Engaged in an act of bullying, including, but not limited to, communications made in writing or by means of an electronic act.
20. 48900(t): A student who aids or abets, as defined in Penal Code section 31, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a student who has been adjudged by a juvenile court to have committed, as an abider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to Education Code section 48900(a).
21. 48900.2: Engaged in sexual harassment as defined in Education Code section 212.5.
22. 48900.3: Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in Education Code section 233(e).
23. 48900.4: Intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of the student or group of students by creating an intimidating or hostile educational environment.
24. 48900.7: Made terroristic threats against school officials or school property, or both.

VII. Suspension Procedures**A. Suspension by a Teacher (Education Code 48910)**

1. A teacher may suspend a student from class for the day of the suspension and the day following or may also refer a student to the principal or designee for consideration of suspension from school for any of the acts listed in Education Code section 48900.
2. When a teacher suspends a student, the teacher will immediately report the suspension to the principal or designee and send the student to the principal or designee for appropriate action.
3. The principal or designee may assign the student to a supervised classroom during the term of the suspension. The principal or designee may not assign the student to another regular classroom during the period the student is suspended from class.
4. As soon as possible, the teacher shall ask the student's parent or guardian to attend a parent-teacher conference regarding the suspension. A school counselor or school psychologist may attend the conference if practical, and a school administrator shall attend, if the parent or guardian or the teacher so requests.

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5. A teacher who suspends a student for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying the valid authority of the teacher or other school personnel may require the parent or guardian to attend a portion of a school day in his or her child's classroom. The attendance of the parent or guardian shall be limited to the class from which the student was suspended.
 - a. The teacher shall apply this policy uniformly to all students within the classroom.
 - b. If a teacher requests a parent to attend school pursuant to this section, the principal or designee shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. The notice may specify that the parent's or guardian's attendance be on the day in which the student is scheduled to return to class or within a reasonable period of time thereafter.
 - c. The teacher shall contact parents or guardians who do not respond to the request to attend school.
 - d. The teacher shall attempt to ascertain the reason for not attending and shall take into account reasonable factors that may prevent compliance.
 - e. The parents or guardians who attend school for the purpose of this policy shall meet with the school administrator or designee after completing the classroom visitation and before leaving the school site.
 - f. This policy shall apply only to a parent or guardian who is actually living with the student.

B. Suspension by Superintendent or Designee, or Principal or Designee.

1. **Investigation.** When an incident occurs that may lead to a suspension, the principal or designee shall investigate the nature of the alleged offense. This investigation shall include a discussion with the student to ensure that the student has the opportunity to be heard. A student's willingness or unwillingness to participate in the investigation may be factored into consideration for future discipline. (Education Code 48911(b))
2. **Informal Conference.** The principal or designee or Superintendent or designee shall hold an informal conference with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal or designee. The informal conference will take place before a suspension by the principal or designee or Superintendent or designee. 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 by Education Code section 48900.5, and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

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The principal or designee or the Superintendent or designee may suspend a student without affording the student an opportunity for a conference if it is determined that an emergency situation exists. An “emergency situation” means a situation determined by the principal or designee or Superintendent or designee to constitute a clear and present danger to the life, safety, or health of students or school personnel. If a student is suspended without a conference prior to suspension, both the parent/guardian and the student shall be notified of the student’s right to a conference and the student’s right to a conference and to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the student is physically able to return to school for the conference.

3. If the principal or designee, upon completion of the incident investigation, determines that the student violated Education Code section 48900(a), (b), (c), (d), (e), or (n), or that the student’s presence causes a danger to persons, the principal or designee may suspend the student on the first violation without further administrative determination. (Education Code 48900.5)

Pursuant to Board Policy No. 5144.10, the principal or designee will suspend and refer the student for consideration of expulsion upon a determination that the student violated Education Code section 48900 (a), (b), (c), (d), or (e).

4. If the principal or designee, upon completion of the incident investigation, determines that:
 - a. The student violated Education Code section 48900(f), (g), (h), (i), (j), (k), (l), (m), (o), (p), (q), (r) or (t) or Education Code section 48900.2, 48900.3, 48900.4, or 48900.7; and
 - b. The student’s presence at school causes a danger to persons or property, or the student’s presence threatens to disrupt the instructional process,

Then the principal or designee may suspend the student on the first violation. (Education Code 48900.5)

If the principal or designee, upon completion of the incident investigation, determines that:

- a. The student violated Education Code section 48900(f), (g), (h), (i), (j), (k), (l), (m), (o), (p), (q) (r) or (t); and
- b. The student’s presence at school does not cause a danger to persons or property, or the student’s presence does not threaten to disrupt the instructional process,

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Then the principal or designee may not suspend the student on the first violation and shall impose other means of correction. (Education Code 48900.5)

The principal or designee may suspend the student on the second violation, provided the principal or designee determines “other means of correction have failed to bring about proper conduct.”

5. Students suspended during the school day shall either be released to the parent or assigned to the resource classroom for the balance of that school day.
6. The Superintendent or designee, principal or designee may immediately suspend and remove a student whose conduct disrupts the academic atmosphere of the school, endangers the student, other students, school employees, or property.

Except in cases of disruption where circumstances make it vital that one or several students be removed from school property immediately, no student shall be released from school during the school day without notifying the parent or responsible adult either in person or by telephone. In any case, every effort shall be made to notify the parent or responsible party before removal occurs.

7. At the time of the suspension, a school employee shall make a reasonable effort to contact the parent or guardian of the student by telephone or in person. (Education Code section 48911 (d))
8. Written notice of the suspension shall be mailed to the parent or guardian of the suspended student. Such notice shall be in the primary language of the parent or guardian. (Education Code 48911) School administrators will utilize email and in person delivery to expedite the notification process.

The principal or designee may request that the parent attend an informal conference with the principal or designee regarding the student’s behavior. The notice shall state that state law requires the parent or guardian to respond to such request without delay.

When a parent is requested to be present for an informal conference regarding the student’s behavior, no penalties may be imposed upon the student for the failure of the parents to attend the informal conference. Nor, may the reinstatement of the student to school be contingent on the attendance by the student’s parent or guardian at the informal conference.

An informal conference, if necessary, should be held at the time and date specified or at a time agreeable to the parent and the principal or designee. Such informal conference, which is not a judicial proceeding must provide at a minimum:

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- a. A statement of the allegations against the student upon which the informal conference is conducted.
- b. Statements by the student and others in defense of the allegations and/or in explanation of his or her conduct.

The principal or designee is not required to permit the presence of legal counsel or follow any prescribed judicial rules in conducting the hearing.

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)

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)

9. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Board or Superintendent. (Education Code 48911(e).)

(Education Code 48911, 48915)

VIII. Involuntary Transfer to Continuation School

- A. When conditions exist that may lead to an involuntary transfer to continuation school, the principal or designee shall investigate the situation. This investigation will include a discussion with the student so that the student may be heard.
- B. A decision to transfer a student involuntarily to a continuation school shall be based on finding that the student committed an act enumerated in Education Code section 48900 or has been habitually truant or irregular in attendance from instruction upon which the student is lawfully required to attend. (Education Code 48432.5)

Involuntary transfer shall be imposed only when other means fail to bring about student improvement; provided that the student may be transferred the first time he or she commits an act enumerated in Education Code section 48900 if the principal or designee determines that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

- C. If the principal or designee determines that grounds for an involuntary transfer exist, the principal or designee shall proceed in the following manner:
 1. If warranted, implement suspension procedures.

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2. Within one school day of the decision to recommend involuntary transfer to continuation by the principal or designee, written notice shall be provided to the student and parent or guardian of the proposed transfer and informing them of the reasons for the recommendation and the opportunity to request a meeting with the designee of the Superintendent prior to the transfer. (Education Code 48432.5)
- D. When a parent/guardian has been provided notice of a transfer as set forth herein and requests a meeting with a designee of the Superintendent prior to the transfer, the Superintendent's designee will meet with the student and the student's parents/guardians. During the meeting all available information, including specific facts and reasons for the proposed transfer, shall be reviewed with the student and the student's parent or guardian and the student provided the opportunity to inspect the documents relied upon, question any evidence and witnesses presented, and present evidence on the student's behalf. (Education Code 48432.5)
1. If the Superintendent's designee determines that an involuntary transfer is not in order, the student will be returned immediately to the student's regular high school program or to a program mutually agreed upon during the conference.
 2. If the Superintendent's designee determines that an involuntary transfer to continuation is in order, the student will be assigned to the continuation school. None of the persons involved in making the final decision may be on the staff of the school in which the student is currently enrolled.
 - a. The decision to transfer shall be in writing stating the fact and reason for the transfer.
 - b. The written decision will include the duration of involuntary transfer, the conditions required to return to the regular program and date of eligibility to return to regular program.

If the parent/guardian disagrees with the decision to involuntarily transfer the student to continuation school, the parent/guardian may request the Director of Student Services and School Attendance (Director) to review the decision and any supporting documentation. The Director may reverse or otherwise modify the involuntary transfer placement. The Director's decision shall be final.
 3. No involuntary transfer to a continuation school shall extend beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred. The Superintendent or designee shall review an involuntary transfer annually at the request of the student.
 4. Transfers from the continuation school to the comprehensive high school shall be initiated prior to the completion of a semester, effective at the start of the following

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semester, upon a request of the student or the parents/guardians of the student.
(Education Code 48432.5)

IX. Suspension with Recommendation for Consideration for Expulsion

A. Board Policy No. 5144.10 declares that the District schools will not tolerate sexual assault, sexual battery, battery, possession of a firearm, possession of a knife, possession of a dangerous object, possession of explosive devices, sale of controlled substances, possession of controlled substances, vandalism, repeated mutual combat, robbery or extortion, participation in gang motivated intimidation, hate-motivated behavior constituting a statutory violation, assault on or threats to school staff, and terroristic threats.

Any student who engages in one or more of the following shall be immediately suspended by the principal or designee and recommended that the student be considered for expulsion from the District and/or for involuntary transfer:

1. Commits or attempts to commit a sexual assault or commits a sexual battery.
2. Found in possession of, sells or furnishes a firearm.
3. Brandishes a knife at another person.
4. Found in possession of an explosive.
5. Unlawfully sells a controlled substance. (Education Code section 48915(c))

Any student who engages in one or more of the following shall be immediately suspended by the principal or designee and recommended for consideration for expulsion from the District and/or for involuntary transfer, unless the principal or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

1. Causes serious physical injury to another person, except in self-defense.
2. Possesses any knife or other dangerous object of no reasonable use to the pupil.
3. Possesses any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except as otherwise provided.
4. Commits robbery or extortion.
5. Commits assault or battery, as defined, upon any school employee. (Education Code section 48915(a))

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Any student who engages in one or more of the following, or other offenses listed in Education Code section 48900, et seq., may be immediately suspended by the principal or designee and may be recommended for consideration for expulsion from the District and/or for involuntary transfer:

1. Commits a battery.
 2. Found in possession of a dangerous object.
 3. Found under the influence of a controlled substance and/or alcohol and/or any other form of intoxicant.
 4. Commits an act of vandalism with property damage.
 5. Participates repeatedly in mutual combat.
 6. Participates in robbery or extortion.
 7. Participates in gang motivated intimidation.
 8. Participates in hate motivated behavior constituting a statutory violation.
 9. Makes a terroristic threat.
- B. Education Code section 48915 designates student violations for which the principal or designee shall suspend and shall refer a student for expulsion.
1. Student violations for which the principal or designee shall suspend and shall refer a student for expulsion are as follows:
 - a. Possessing, selling, or otherwise furnishing a firearm. This does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated District employee, which is concurred in by the principal or designee. This applies to the act of possessing a firearm only if a District employee verifies the possession. This constitutes a violation of Education Code section 48900(b), possession of a weapon, firearm.
 - b. Brandishing a knife at another person. This constitutes a violation of Education Code section 48900(a) and (b), threat to commit an injury to another person and possession of a weapon, knife.
 - c. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code. This constitutes a

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- violation of Education Code section 48900(c), possession of a controlled substance, possession of a controlled substance for sale, and selling a controlled substance.
- d. Committed or attempting to commit a sexual assault as defined in Education Code section 48900(n) or committing a sexual battery as defined in Education Code section 48900(n). This constitutes a violation of Education Code section 48900(n), sexual assault or battery.
 - e. Possession of an explosive. This constitutes a violation of Education Code section 48900(b), possession of a dangerous object.
2. The principal or designee or the Superintendent or designee shall recommend the expulsion of a student for any of the following acts committed at school or at a school activity off school grounds, unless the principal or designee or Superintendent or designee finds that expulsion is inappropriate, due to the particular circumstances or that an alternative means of correction would address the conduct. (Education Code 48915(a(1)))
- a. Causing serious physical injury to another person, except in self-defense. This constitutes a violation of Education Code section 48900(a), caused a serious physical injury.
 - b. Possession of any knife, or other dangerous object of no reasonable use to the student. This constitutes a violation of Education Code section 48900(b), possession of identified dangerous object.
 - c. Unlawful possession of any controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis and except for the possession of over-the-counter medication for use by the student for medical purposes or medication prescribed for the student by a physician. This constitutes a violation of Education Code section 48900(c), identified controlled substance.
 - d. Robbery or extortion. This constitutes a violation of Education Code section 48900(e).
 - e. Assault or battery, as defined in Penal Code sections 240 and 242, upon any District employee. This constitutes a violation of Education Code section 48900(a).
3. The principal or designee or the Superintendent or designee may suspend and recommend a student for consideration for expulsion, upon finding, the student committed an act listed in Education Code section 48900(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (o), (p), (q), (r) or (t) or Education Code section 48900.2, 48900.3, 48900.4 or 48900.7, other than those listed in IX B.1. and IX B.2. of this administrative regulation.

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X. Expulsion Procedures

When an incident occurs or conditions exist that may lead to an expulsion, the principal or designee shall investigate the nature of the alleged incident or conditions. This investigation shall include a discussion with the student, if available, so that the student is given an opportunity to be heard with respect to the matter.

A. Suspension and Recommendation for Consideration for Expulsion. If the principal or designee determines that grounds for an expulsion exist, the principal or designee shall proceed in the following manner:

1. Suspend the student from school in accordance with the procedures in section VII – Suspension Procedures above.
2. Provide a written recommendation to the Superintendent’s designee containing the offenses committed and a statement of the incident.

B. Referral for Further Disposition. Upon suspending a student and recommending the student be considered for expulsion, the principal or designee shall refer the matter to the Superintendent’s designee for further disposition.

1. Superintendent’s designee proceeds in the following manner:
 - a. Within five school days of the commencement of a student’s suspension, the student and parents/guardians must be given an opportunity to meet with the Superintendent’s designee. Such meeting, which is not a judicial proceeding, must provide the parents/guardians and student with the opportunity to present any additional data relevant to the recommendation and/or mitigation or explanation of the student’s conduct.
 - b. The suspension may be extended pending an expulsion hearing only if the Superintendent’s designee has determined, following a meeting to which the student and the student’s parent/guardian are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If no danger to persons or property or a threat of disrupting the instruction process exists, the student must be allowed to return to school following the suspension, pending the expulsion.
 - c. If a student or the student’s parent/guardian has requested a meeting to discuss the original suspension, the Superintendent’s designee may determine at that meeting whether to extend the expulsion.

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- d. If the Superintendent's designee determines that grounds for expulsion do not exist, the designee will:
 - (1) Authorize reinstatement of the student in the regular program or authorize the student to enroll in another educational program upon a request by the student and the student's parents/guardians, and
 - (2) Direct that the alleged offense be expunged from the student's mandatory interim discipline file.

C. Timelines for Hearing

1. The student shall be entitled to a hearing to determine whether he or she should be expelled. An expulsion hearing shall be held within 30 school days after the date the principal or designee or the Superintendent or designee determines that the student has committed an offense warranting expulsion, unless the student requests, in writing, that the hearing be postponed. The student shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the Board's discretion.
2. If it is impracticable for the Board to comply with the time requirements for conducting an expulsion hearing under this section, the Superintendent or designee may, for good cause, extend the time period for commencing the expulsion hearing for an additional five school days. Reasons for the extension of the time for the hearing shall be included as part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.
3. If the 30 school-day period within which to hold an expulsion hearing extends into a summer recess of Board meetings of more than two weeks, the days during the summer recess period shall not be counted as school days toward the 30 school-day time limit. The school days not counted during a summer recess of the Board shall not exceed 20 school days, as defined in Education Code section 48925(c), and 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 school for the school year. (Education Code 48918(a))

D. Written Notice of Hearing

Written notice of the hearing shall be forwarded to the student at least 10 calendar days prior to the date of the hearing. The notice shall include:

1. The date and place of the hearing.

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2. A statement of the specific facts and charges upon which the proposed expulsion is based.
3. A copy of the disciplinary rules of the District that relate to the alleged violation.
4. Notice of the parent's/guardians or student's obligation to notify a subsequent school district of the student's expulsion status pursuant to Education Code section 48915.1(b).
5. Notice of the opportunity for the student or the student's parent/guardian to appear in person or employ and be represented by counsel or by a non-attorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the student's behalf, including witnesses.

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)

E. Student's Right to Waive Hearing

The student and the student's parent/guardian shall be afforded the opportunity, at their discretion, to waive any and all of the student's due process rights relative to an expulsion recommendation, including, but not limited to, the right to a hearing to determine whether the student committed the offense(s) with which s/he has been charged. If the student and/or the student's parent/guardian requests a waiver of any of the student's rights, the consequences of such a waiver shall be thoroughly explained to them by the District prior to entering into a waiver agreement.

F. Administrative Expulsion Hearing Panel

1. Composition of the Administrative Expulsion Hearing Panel: The Administrative Expulsion Hearing Panel shall consist of three certificated persons, none of whom is employed at the school at which the student is enrolled. The panel will be chaired by the Director of Student Services and School Attendance or designee. (Education Code 48918(d).)

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2. The Administrative Expulsion Hearing Panel will be convened by the Panel Chairperson, who will ensure the administrative hearing is conducted pursuant to due process guidelines.
3. The Chairperson will inform the parents/guardians and the student of the findings of fact and the Administrative Panel's determinations and the student's rehabilitation plan after the Panel's deliberations are completed.
4. The Chairperson will prepare the Panel's findings of fact and determinations and the student's rehabilitation plan for presentation to the Board for action by the Board.
5. In lieu of the Administrative Expulsion Hearing Panel conducting an expulsion hearing, the Board, a county hearing officer, or an Administrative Law Judge from the California Office of Administrative Hearings may conduct the hearing. The hearing shall be conducted in accordance with all of the procedures established under this administrative regulation.

G. Hearing in Closed Session

The Administrative Expulsion Hearing Panel shall conduct a hearing to consider the expulsion of a student in a session closed to the public, unless the student requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the Administrative Expulsion Hearing Panel may meet in closed session for the purpose of deliberating and determining whether the student should be expelled.

H. Evidence at the Hearing

1. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
2. No evidence to expel shall be based solely upon hearsay evidence; however, the Administrative Expulsion Hearing Panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Administrative Expulsion Hearing Panel. Copies of these sworn declarations, which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the student.
3. If the student, parent/guardian, or representative of the student fails to object at the hearing that these rules are not being properly followed or that any other law or requirement of due process is not being followed, the objections shall be deemed waived.

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4. Any testimony provided by a student witness in an expulsion hearing conducted is expressly deemed to be a communication protected by Civil Code section 47(b).

I. Subpoena Power

1. Before the hearing has commenced, the Board may issue subpoenas at the request of either the Superintendent or designee or the student, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the Board, the Chairperson, or the Administrative Expulsion Hearing Panel may, upon request of either the county superintendent of schools, the Superintendent's designee, or the student, issue subpoenas. All subpoenas shall be issued in accordance with Code of Civil Procedures sections 1985, 1985.1, and 1985.2. Enforcement of subpoenas shall be done in accordance with Government Code section 11455.20.
2. Any objection raised by the Superintendent or designee or the student to the issuance of subpoenas may be considered by the Administrative Expulsion Hearing Panel in closed session, or in open session, if so requested by the student before the meeting. Any decision by the Administrative Expulsion Hearing Panel in response to an objection to the issuance of subpoenas shall be final and binding.
3. If the Administrative Expulsion Hearing Panel determines that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration. (Education Code section 48918(f), (i)(3))
4. Service of process shall be extended to all parts of the State and shall be served in accordance with Code of Civil Procedure section 1987. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political subdivision thereof, shall receive fees. All witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

J. Record of the Hearing

A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

K. Recommendation by Administrative Expulsion Hearing Panel

1. Within three school days after the hearing, the Administrative Expulsion Hearing Panel shall determine whether to recommend the expulsion of the student to the Board.

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2. If the Administrative Expulsion Hearing Panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the student immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the Superintendent's designee after consultation with District personnel, including the student's teachers and parent(s). The decision not to recommend expulsion shall be final.
3. If the Administrative Expulsion Hearing Panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing.
4. The Board shall make its decision about a student's expulsion within 40 school days after the date the principal or designee or the Superintendent or designee determined that the student committed the act listed in Education Code section 48900 for which the recommendation for expulsion is made by the principal or designee or the Superintendent or designee, unless the student requests in writing that the decision be postponed.
5. The decision to expel a student shall be based upon the substantial evidence, relevant to the charges and showing that the student committed any of the acts enumerated above, adduced at the expulsion hearing or hearings.
6. The parents/guardians may appear before the Board to appeal the expulsion recommendation, provided notice is received from the parents/guardians by the Director of Student Services and Student Attendance no later than 11:00 a.m. on the Friday preceding the date the Board is scheduled to consider the expulsion.
7. If the Board accepts the recommendation of the Administrative Expulsion Hearing Panel calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the Administrative Expulsion Hearing Panel or upon the results of any supplementary hearing conducted pursuant to this section that the Board may order.

L. Rehabilitation Plan

The Board shall recommend or adopt the Administrative Expulsion Hearing Panel's recommended plan of rehabilitation for the student at the time of the expulsion order, which may include, but not be limited to, periodic review of the student's progress and a requirement that the student attend and participate in the actual review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs. The Board may require a student who is expelled for reasons relating to controlled substances (as defined in Health and Safety Code sections 11054 to 11058, inclusive), or alcohol, to enroll in a county-supported drug rehabilitation program prior to returning to

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school. No student shall be required to enroll in a drug rehabilitation program without parent/guardian consent. (Education Code 48916(b), 48916.5)

M. Suspension of Expulsion

1. The Administrative Expulsion Hearing Panel or the Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class, or program that is deemed appropriate for the rehabilitation of the student. The criteria for suspending the enforcement of an expulsion order shall apply equally to all students. The rehabilitation program to which the student is assigned may provide for the involvement of the student's parent/guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent's/guardian's refusal to participate in the rehabilitation program shall not be considered in the determination as to whether the student has satisfactorily completed the rehabilitation program. During the period of the suspension of the expulsion order, the student shall be deemed to be on probationary status. (Education Code 48917)
2. The Board may revoke the suspension of an expulsion order under this section if the student commits any of the acts for which a student may be suspended or expelled under this administrative regulation or violates any of the District's rules and regulations governing student conduct. When the Board revokes the suspension of an expulsion order, the student may be expelled under the terms of the original expulsion order without an additional hearing before the Board or an Administrative Expulsion Hearing Panel.
3. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a school of the District and may also order that any or all records of the expulsion proceedings be expunged.
4. A decision to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education. Any appeal shall be filed within 30 days of the original vote for expulsion.

N. Final Action in Public Session

Whether an expulsion hearing is conducted by the Board, a hearing officer, or the Administrative Expulsion Hearing Panel, the Board's final action to expel a student shall be taken in a public session.

O. Written Notice of Expulsion Decision

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

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1. Notice of the right to appeal the expulsion to the county board of education.
2. Notice of the educational alternative placement to be provided to the student during the time of expulsion.
3. Notice of the parent, guardian, or student's obligation under Education Code section 48915.1(b), upon the student's enrollment in a new school district, to inform that district of the expulsion.
4. A description of the procedure for requesting readmission.

P. Record of Expulsion

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

Q. Special Procedures for Cases of Sexual Assault or Battery

1. In a hearing in which a student is alleged to have committed or attempt to commit a sexual assault or to have committed a sexual battery, prior to a complaining witness testifying, support person(s) shall be admonished that the hearing is confidential.
2. A complaining witness shall have the right to have his or her testimony heard in a closed session if the hearing is open to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.
3. At the time the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to:
 - a. Receive five days' notice of his or her scheduled testimony at the hearing.
 - b. Have up to two adult support persons of his or her choosing present at the hearing at the time he or she testifies.
 - c. Have the hearing closed during the time he or she testifies.
4. The expulsion hearing may be postponed for one school day to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness.

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5. The District shall provide a nonthreatening environment for a complaining witness to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing and to prevent discouragement of complaints. The District shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness' support persons to accompany him or her to the witness stand.
6. Evidence of specific instances of a complaining witness's prior sexual conduct is to be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances exist requiring the evidence be heard. Before such a determination is made, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of such evidence, the complaining witness shall be entitled to be represented by a parent, guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.
7. Complaining witnesses and accused students will be advised immediately after any allegation is made of conduct violating Education Code section 48900(n) to refrain from personal or telephonic contact, or electronic communication with each other during the pendency of any expulsion process.

(Education Code 48918, 48918.5)

R. Educational Program Requirements for Expelled Students

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

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- c. Is not housed at the school site attended by the student at the time of suspension.
 - d. Notwithstanding this subsection, with respect to a student expelled for a violation of Education Code section 48900(f) through (t), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive high school and that the only option for placement is at another comprehensive high school, the student may be referred to a program of study that is provided at a comprehensive high school.
3. Notwithstanding the above, a student expelled for any of the offenses listed above in IX.B.1. or IX.B.2. shall not be permitted to enroll in any other school or school district during the period of expulsion, unless it is a county community school pursuant to Education Code section 1981(c), a juvenile court school as described in Education Code section 48645.1, or a community day school pursuant to Article 3 (commencing with Education Code section 48660) of Chapter 4 of Part 27.
 4. The District may offer the student who is subject to the expulsion order independent study to satisfy the requirements of Education Code section 48915(d). The parent/guardian and the student shall provide the written consent for placement in independent study. The District or the county superintendent of schools shall notify the expelled student of the option of classroom instruction pursuant to Education Code section 51747(c)(7).
 5. The program provided pursuant to this section is the only program required to be provided to expelled students as determined by the Board.

(Education Code 48915(d), (f); 48915.2; 48916.1)

S. Readmission After Expulsion

1. Duration of Expulsion: An expulsion order shall remain in effect until the Board orders the readmission of a student. At the time an expulsion of a student is ordered for an act other than those described in IX.B.1., the Board shall set a date not later than the last day of the semester following the semester in which the expulsion occurred, when the student shall be reviewed for readmission to a school maintained by the District or to the school the student last attended. For a student who has been expelled pursuant to IX.B.1., the Board shall set a date of one year from the date the expulsion occurred when the student shall be reviewed for readmission to a school maintained by the District, except that the Board may set an earlier date for review for readmission on a case-by-case basis.
2. Procedure for Readmission
 - a. On or before the date established by the Board when the student will be reviewed for readmission, the student shall submit written documentation in support of readmission to the Superintendent's designee. The student should describe his/her compliance with

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- the rehabilitation plan recommended at the time of the expulsion order. Failure to submit documentation and/or to cooperate in the review of readmission may be deemed grounds for denial or readmission.
- b. The Superintendent's designee will review the written documentation in support of readmission and the accompanying information, and may request additional information as needed. The Superintendent's designee also may schedule a conference with the student and the student's parent/guardian to review the written documentation in support of readmission.
 - c. Within 10 school days of the request for readmission, the Superintendent's designee will determine whether the student should be readmitted. The Superintendent's designee will give the student and/or the student's parent/guardian written notice of the decision. If the Superintendent's designee readmits the student, the decision shall be final.
 - d. If the Superintendent's designee denies the student's readmission, the Superintendent's designee shall inform the student, in writing, of the decision, the reasons therefore, and of the student's right to appeal the decision to the Board. The Superintendent's designee shall also inform the student that an appeal must be in writing and must be submitted to the District office within two weeks of receipt of the decision.
 - e. The appeal will be heard at the next Board meeting following receipt of the appeal, unless the Board meeting is within three work days of receipt of the student's appeal. In such case, the appeal will be heard at the following Board meeting.
 - f. The Board will meet with the student, his or her parent/guardian, and the Superintendent or designee in closed session. The Board will review all written materials related to the denial of readmission. The student or the parent/guardian may explain why the student should be readmitted and the Superintendent or designee may explain why s/he denied readmission. The Board shall readmit the student unless the Board makes a finding that the student has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other students or employees of the District.
 - g. The Board shall make a decision no later than the meeting following the meeting at which the appeal was heard. The Board shall notify the student of its decision in writing no later than two weeks following this meeting. The Board's decision regarding readmission is final.
 - h. If the Board denies readmission, the Board shall determine whether to continue the placement of the student in the alternative educational program initially selected for the student during the period of the expulsion order or to place the student in another

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program that may include, but not be limited to, serving expelled students, including placement in a county community school.

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

(Education Code 48916)

T. Appeal to the County Board of Education

1. Time for Appeal. If a student is expelled from school, the student or the student's parent/guardian may, within 30 days following the decision of the Board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision. The period within which an appeal is to be filed shall be determined from the date the Board votes to expel, even if enforcement of the expulsion is suspended and the student is placed on probation. A student who fails to appeal the original action of the Board within the prescribed time may not subsequently appeal a decision of the Board to revoke probation and impose the original order of expulsion.
2. Required Records. The student shall submit 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 of education. The District shall provide the student with the transcriptions, supporting documents, and records within 10 school days following the student's written request. Upon receipt of the records, the student shall immediately file suitable copies of these records with the county board of education.

The student is responsible to submit a written transcription for review by the county board of education. The student shall bear the cost of the transcript, except in either of the following situations:

- a. Where the student's parent/guardian certifies to the District that s/he cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.
- b. In a case in which the county board of education reverses the Board's decision, of the Board, the county board of education shall require the Board to reimburse the student for the cost of the transcription.

(Education Code 48919-48924)

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XI. Student Discipline – Section 504 Students

The Board intends that students identified with disabilities under Section 504 of the Rehabilitation Act of 1973 (29 U.S. Code Section 705, et seq.) are subject to the same grounds and procedures for suspension and expulsion which apply to students without disabilities, except as otherwise specified in this section. (34 C.F.R. 104.36) For purposes of this section, the term "students with disabilities" means students identified under Section 504 of the Rehabilitation Act of 1973 (29 U.S. Code Section 705, et seq.).

A. Suspension

The Superintendent or designee may suspend a student with a disability eligible under Section 504 for up to five consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, subject to the following provision related to change of placement, as described below.

The principal or designee shall monitor the number of days, including portions of days, in which a student with a valid Section 504 Plan has been suspended during the school year.

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:

1. The removal is for more than 10 consecutive school days, which may only occur upon extension of a student's suspension pending expulsion.
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 disciplinary removal for more than 10 school days in the same school year constitutes a change in placement, the student must be reevaluated and the Section 504 team must convene to consider the results of the reevaluation and conduct a manifestation determination as described in XI.B below.

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B. Manifestation Determination

The following procedural safeguards shall apply when a student with a disability's disciplinary removal constitutes a change of placement due to a suspension for more than 10 consecutive school days, when a series of removals constitutes a pattern, or when a change of placement of a student is contemplated due to a recommendation for expulsion:

Manifestation Determination Review. No more than 10 school days after the date of the decision to change the student's placement is made, a manifestation determination review meeting shall be convened to consider 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)

1. At the manifestation determination review, the District, the student's parent/guardian, and relevant members of the Section 504 team shall review all relevant information in the student's file, including the student's Section 504 Plan, 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 Section 504 Plan, in which case the District shall take immediate steps to remedy those deficiencies.
2. If the manifestation review team determines that either of the above conditions applies, the student's conduct shall be deemed to be a manifestation of his/her disability and the student shall be returned to the student's placement. (20 USC 1415(k)(1)(E); 34 CFR 300.530) If neither of the above conditions applies, then the District may discipline the student as it would a student without a disability.
3. In accordance with the provisions of Administrative Regulation No. 6164.6, a parent who disagrees with the determination of a manifestation review may appeal that decision by requesting an impartial Section 504 due process hearing.
4. Section 504 procedural safeguards, including the right to a manifestation determination, do not apply to a student who currently uses drugs and/or alcohol whose suspension resulted from the student's use and/or possession of drugs and/or alcohol.

C. Readmission Following an Expulsion

Readmission procedures for students with disabilities shall be the same as those adopted for students without disabilities. Upon readmission of a student with disabilities, a Section 504 team meeting may be convened to review and, as necessary, modify the student's Section 504

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Plan.

D. Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students.

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(b) citing 48902(e))

E. Report to County Superintendent of Schools

The Superintendent or designee shall report to the county superintendent of schools when any student identified with a disability under Section 504 of the Rehabilitation Act of 1973 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)

XII. Student Discipline - Special Education Students Under the IDEA

A student identified as an individual with a disability pursuant to the Individuals with Disabilities Education Improvement 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 section. For purposes of this section, the term "students with disabilities" means students identified under IDEA.

A. Suspension

The Superintendent or designee may suspend a student with a disability for up to five consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, subject to the following provision related to change of placement, as described below. (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.

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)

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1. The removal is for more than 10 consecutive school days, which may only occur upon extension of a student's suspension pending expulsion.
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 disciplinary 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 to provide to the student for any days over the 10 school days. 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)

B. 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 or sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V.
3. Inflicts serious bodily injury upon another person as defined in 18 USC 1365.

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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)

C. 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 recommendation for expulsion:

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)
2. Manifestation Determination Review: No more than 10 school days after the date of the decision to change the student's placement, a manifestation determination review shall be convened to consider 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 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.

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(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)

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)

D. 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. 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.

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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)

E. Readmission Following Expulsion

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 may be convened to review and, as necessary, modify the student's IEP.

F. Notification to Law Enforcement Authorities

Law enforcement notification requirements involving students with disabilities shall be the same as those specified for all students.

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(b) citing 48902(e))

G. 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)

H. 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; 29 USC 794)

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.

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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.
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)

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