

**CLOVIS UNIFIED
SCHOOL DISTRICT****STUDENTS****Rights and Responsibilities****STUDENT DISCIPLINE**

PURPOSE: To establish rules and procedures regarding the discipline of students attending schools within the District.

A. General

1. The Education Code provides for the methods of disciplinary action which may be utilized when corrective action is necessary due to the misconduct of students. Types of discipline provided for in the Education Code include suspension, court ordered exclusion, expulsion, and involuntary transfer to a continuation school.
2. The Board views the above measures as major consequences that should be used only when other means of discipline have failed to bring about the desired student behavior and/or the offense committed by the student is such that strong measures are required. Other means of correction may include, but are not limited to: counseling, parent conferences, program changes, restriction of the student's participation in school sponsored activities, School Attendance Review Board, referral to a supervised resource classroom, community service, an Alternative Educational Program, Saturday school, and assignment to detention.
3. The Board intends to promote harmonious human relationships that enable students to gain a true understanding of the rights and duties of people in our society. To further this intent, each District school is responsible for creating a safe school environment conducive to student learning. A safe school environment mitigates against anxiety-producing or demeaning incidents taking place within the confines of the school.
4. A safe school environment is free of hate-motivated behavior. Hate-motivated behavior includes any act of hate violence as defined in Education Code section 233(e). Acts of hate-motivated behavior constitute a disruptive influence in the community and on a school campus. Acts of hate-motivated behavior include not only criminal acts, but also non-criminal acts such as: (a) posting or circulating demeaning jokes, leaflets or caricatures; (b) defacing, removing or destroying posted materials, announcements, or memorials, and the like; (c) distributing or posting hate-group literature and/or posters, (d) using bigoted insults, taunts or slurs, and (e) possession of hate-group literature, caricatures, and the like. Students who engage in hate motivated acts shall be immediately suspended and recommended for consideration for further discipline, up to and including expulsion an involuntary transfer.
5. A safe school environment is free of sexual harassment as defined in Education Code section 212.5. Acts of sexual harassment may be sufficiently severe or pervasive as to create an intimidating, hostile, or offensive educational environment and have a negative impact upon the victim's academic performance. Students who engage in sexual harassment shall be

**CLOVIS UNIFIED
SCHOOL DISTRICT**

immediately suspended and recommended for consideration for further discipline, up to and including expulsion and involuntary transfer.

6. A safe school environment is free of gang related conduct or activity. Gang related conduct or activity includes, but is not necessarily limited to, symbols, graffiti, apparel, colors, hazing/initiations, intimidation, hand signals or verbal language and sounds commonly associated with gangs and inciting other students to act with physical violence upon any other person.

Students who engage in a gang related activity shall be immediately suspended and recommended for consideration for further discipline, up to and including expulsion and involuntary transfer.

7. Title 5, section 300 of the California Code of Regulations specifies that students will conform to the regulations of the school, obey promptly all the directions of their teachers and others in authority, and observe good order and proper deportment.

Education Code section 48900(k) provides authority to suspend certain students who disrupt school activities or otherwise willfully defy the valid authority of supervisors, teachers, administrators, or other school personnel. The Board defines defiance and disruption to include, but not be limited to, the following:

- a. Verbally abusing a supervisor, teacher, administrator, or other school personnel.
- b. Engaging in disruptive behavior on the campus, in the classroom, at a student body activity, on a school bus, at a school bus stop, or at a club or other school supervised activity.
- c. Engaging in gambling.
- d. Engaging in hazing, or malicious defamation of other students or of District employees.
- e. Engaging in immoral behavior, including, but not limited to, possession or possession with intent to sell, pornographic materials.
- f. Leaving school without permission of school authority during the school day or entering a restricted area on campus.
- g. Violating any governmental statute, ordinance, and/or regulation.
- h. Committing an act in violation of the District's dress code, closed campus or any other District board policies, administrative regulations, and/or school rules.
- i. Engaging in hate-motivated behavior.

**CLOVIS UNIFIED
SCHOOL DISTRICT**

- j. Engaging in a gang-related activity, or emulating gang-related activity.
 - k. Provoking, challenging, or engaging in unlawful fighting.
 - l. Using a cell phone or other electronic device in an unauthorized manner or at an unauthorized time during the school day, while riding on a school bus, or at any time while students are under the supervision of District employees, unless essential to the health of the student. If an electronic device causes a disruption, it may be confiscated by a District employee.
 - m. Intentionally falsifying or misrepresenting material information provided to a District employee or on District records or altering, defacing or destroying District records without proper authorization.
 - n. Engaging in any form of communication that is obscene, libelous, or slanderous.
8. The Board recognizes that each student's case is an individual matter requiring close scrutiny to assure that as a matter of fact the student committed the alleged offense(s), and that appropriate disciplinary measures are implemented. Additionally, in all instances involving expulsion, findings of fact shall be presented to the Board with documented data to support such findings.

B. Intent of the Board

- 1. The Board intends that students with disabilities qualified under Section 504 of the Rehabilitation Act of 1973 (29 U.S. Code section 705, et seq.) be subject to the same rules, regulations, and discipline procedures established for other students attending a District school, when it is established that the misconduct was not a manifestation of the student's disability as determined in accordance with applicable law.
- 2. The Board intends that students enrolled in special education programs pursuant to the Individuals with Disabilities Education Act, 20 U.S. Code et seq. section 1400, and Education Code section 56000 et seq. be subject to the same rules, regulations, and discipline procedures established for other students attending District schools when it is established that the misconduct was not a manifestation of the student's disability as determined in accordance with applicable law. All the procedural safeguards established by state and federal law, and District policies and regulations shall be observed in considering the suspension or expulsion of special education students.
- 3. The Board intends that the school principal or designee will administer and recommend discipline for students who violate District policy; this includes the immediate suspension and recommendation for consideration for further discipline, up to and including expulsion and involuntary transfer, for students who violate the District's Zero Tolerance Policy or for which such actions are mandated by state or federal statutes.

**CLOVIS UNIFIED
SCHOOL DISTRICT**

4. The Board intends that all students will be afforded statutory due process rights in all matters pertaining to suspension expulsion, involuntary transfer, and other discipline.
 - a. The Board directs that all expulsion hearings be conducted in the manner prescribed by law, ensuring that student due process rights are properly protected.
 - b. Before an expulsion hearing has commenced, the Board or its designee may issue subpoenas at the request of the Superintendent or designee or the student for the personal appearance of percipient witnesses at the hearing. All subpoenas shall be issued in accordance with Code of Civil Procedure sections 1985, 1985.1, and 1985.2. Enforcement of subpoenas shall be done in accordance with Government Code section 11455.20.
 - c. After an expulsion hearing has commenced, the District Expulsion Hearing Panel may issue the subpoenas.
5. The Director of Student Services and School Attendance, Assistant Director of Student Services and School Attendance, and the Student Services and School Attendance Consultants are designees of the Superintendent for purposes of student discipline.
6. The District Expulsion Hearing Panel shall be comprised of a Chairperson, who shall be the Director of Student Services and School Attendance, and three additional members, who may be: one school psychologist, plus two qualified persons serving or previously serving as a District administrator. All members of the Expulsion Hearing Panel, including the Chairperson, shall be certificated persons who are not employed at the site of attendance. The District shall determine the members of the District Expulsion Hearing Panel.
7. The Board authorizes the Superintendent's designees to act on the Superintendent's behalf when a student who has been referred for consideration for expulsion for a violation other than one requiring a mandatory expulsion:
 - a. Does not contest the information stated in the charges and/or stipulates to having committed the expellable violation,
 - b. Requests a waiver of due process hearing rights,
 - c. Requests permission to attend an alternative education program provided by the District pursuant to a prescribed rehabilitation plan, and
 - d. Commits to successfully complete the prescribed rehabilitation plan to suspend further actions in the matter and authorize the student to participate in such plan.

**CLOVIS UNIFIED
SCHOOL DISTRICT**

8. The Board directs the Superintendent's designees to prepare the necessary information and recommend to the Expulsion Hearing Panel that the student be expelled from the District when a student has been referred for consideration for expulsion for misconduct when the facts are in dispute, or alternatives to expulsion are not deemed appropriate.
9. The Expulsion Hearing Panel will hear the recommendations of the Superintendent's designee and issue findings of facts and determinations for review by the Board. The hearing will be conducted pursuant to the due process rights set forth in Education Code section 48900 et seq.
10. The Chairperson of the Expulsion Hearing Panel will report all findings of fact and determinations made by the Hearing Panel to the Board with a recommendation for Board action. Such recommendations will be presented pursuant to the Education Code and this policy.
11. The Board will receive recommendations for expulsion from the Chairperson of the District Expulsion Hearing Panel, who shall present findings of fact to support such recommendations. The recommendation shall include information verifying that all hearings conducted by the District Expulsion Hearing Panel were conducted in compliance with the Education Code and in accordance with board policy and administrative regulations.
12. The Board recognizes its responsibility to expel a student upon finding the student has committed one of the mandatory expulsion offenses.
13. The Board recognizes that upon expelling a student, the student must be referred to a program of study that meets the statutory criteria set forth in the Education Code.
14. Duration of the Expulsion

An expulsion order shall remain in effect until the Board orders the readmission of a student. When expulsion of a student is ordered for an act other than those described in mandatory expulsions, 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 the school the student last attended.

- a. A student expelled for a mandatory expulsion offense must be reviewed for readmission to a school maintained by the District within one year from the date the expulsion occurred. The Board may set an earlier date for readmission on a case-by-case basis.
- b. The Board shall apply the criteria for suspending the enforcement of an expulsion order equally to all students, including individuals with exceptional needs as defined in Education Code section 56026.
- c. The Board may revoke the suspension of an expulsion order if the student commits any of the acts enumerated in Education Code section 48900, violates any of the District's

**CLOVIS UNIFIED
SCHOOL DISTRICT**

policies, rules, and administrative regulations governing student conduct, or fails to comply with any of the requirements in the student's suspended expulsion agreement or rehabilitation plan.

- d. When the Board revokes the suspension of an expulsion order, a student may be expelled under the terms of the original expulsion order without the necessity of a formal hearing.

C. Board Directions

1. The Board directs the Superintendent to adopt an administrative regulation governing the administration of student discipline in the District. Such regulation must comply with state and federal statutes pertaining to student discipline, including suspension and expulsion.
2. The Board directs the Superintendent or designees to ensure District staff implements student disciplinary actions in compliance with this policy and laws of the State of California.
3. The Board direct that students and the parents(s) and/or guardian(s) of all students registered to attend schools operated by the District be notified at the beginning of each year of the availability of rules of the District pertaining to student discipline.

Additionally, the principal or designee of each school shall take steps to ensure that all rules pertaining to the discipline of students are communicated to continuing students at the beginning of each school year and to transfer students at the time of their enrollment in the school.

D. Corporal Punishment

No person employed by or engaged in a school of the District shall inflict, or cause to be inflicted, corporal punishment upon a student.

For purposes of this policy, corporal punishment means the willful infliction of, or willfully causing the infliction of, physical pain on a student. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to a person or persons or damage to property for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the student is not and shall not be construed to be corporal punishment. Physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by a student or by participation in a required physical education class is not and shall not be construed to be corporal punishment.

Adopted: 07/23/1975

Amended: 01/04/1978, 02/08/1978, 10/11/1978, 10/26/1985, 05/27/1987, 03/15/1989,
10/09/1991, 06/08/1992, 06/09/1993, 06/18/1997, 09/26/2001, 01/08/2003,
08/23/2006, 07/08/2009, 01/14/2015, 11/18/2020 (BP 2102 renumbered as BP 5144;

CLOVIS UNIFIED SCHOOL DISTRICT

moved all contents of BP 2103)

EDUCATION CODE

200-262.4 Prohibition of discrimination

35145 Public meetings

48202 Severance of attendance regulations

48413 Enrollment in continuation classes

48432.5 Involuntary transfer of students

48900 Grounds for suspension or expulsion

48927 State specific schools

48900.2 Additional grounds for suspension or expulsion

48900.3 Hate violence

48915-21 Expulsion; particular circumstances

48923 Decision of county board

51512 Prohibition against electronic listening or recording device in classroom without permission

BUSINESS & PROFESSIONS CODE

25608 Public schoolhouses or grounds; penalties

PENAL CODE

240 "Assault" defined

242 "Battery" defined

647 Use of camera to invade person's privacy

HEALTH & SAFETY CODE

11364.7 Drug paraphernalia; penalties and punishment

CODE OF CIVIL PROCEDURE

1985 Subpoena defined

1985.1 Agreement to appear at time other than specified in subpoena

1985.2 Subpoenas; civil trials

GOVERNMENT CODE

11455.20 Order to show cause

CODE OF REGULATIONS, TITLE 5

300 Duties of students

Doc# 43393-10 (10/2020, 12/2018)