

Policy 5144.1: Suspension And Expulsion/Due Process

Status: DRAFT

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

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

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

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school-sponsored activity

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

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in ~~items~~**Items #1-5** under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

Students shall not be suspended or expelled ~~for~~**based solely on a student's** truancy, tardiness, or absenteeism from assigned school activities. **(Education Code 48900)**

On-Campus Suspension

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

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

Authority to Expel

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

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student

found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds: (Education Code 48915)

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, **287, 288, or 289, or former 288a, or 289,** or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation, the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following: (Education Code 48915(b) and (e))

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

A vote to expel a student shall be taken in an open session of a Board meeting. (**Education Code 48918(j)**)

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

No student shall be expelled for disruption or willful defiance. (Education Code 48900)

No child enrolled in a preschool program shall be expelled **or unenrolled** except under limited circumstances **in accordance with Education Code 8489.1 and** as specified in **ARAdministrative Regulation** 5148.3 - Preschool/Early Childhood Education.

Due Process

The Board shall provide for the fair and equitable treatment of students facing suspension and/or expulsion by affording ~~them~~ **the students** due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall maintain outcome data related to student suspensions and expulsions in accordance with Education Code 48900.8 and 48916.1, including, but not limited to, the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period. For any expulsion that involves the possession of a firearm, such data shall include the name of the school and the type of firearm involved, as required pursuant to 20 USC 7961. Suspension and expulsion data shall be reported to the Board annually and to the California Department of Education when so required.

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

Policy Reference Disclaimer: These references are not intended to be part of the policy itself, nor do they indicate the basis or authority for the board to enact this policy. Instead, they are provided as additional resources for those interested in the subject matter of the

policy.

State References

Civ. Code 47
Civ. Code 48.8
Code of Civil Procedure 1985-1997
Ed. Code 17292.5
Ed. Code 1981-1983
Ed. Code 212.5
Ed. Code 233
Ed. Code 32260-32262
Ed. Code 35145
Ed. Code 35146
Ed. Code 35291
Ed. Code 35291.5
Ed. Code 48645.5
Ed. Code 48660-48666
Ed. Code 48853-48853.5
Ed. Code 48900-48927
Ed. Code 48950
Ed. Code 48980
Ed. Code 49073-49079
Ed. Code 52052
Ed. Code 52059.5-52077
Ed. Code 64000-64001
Ed. Code 8489-8489.1
Gov. Code 11455.20
Gov. Code 54950-54963
H&S Code 11014.5
H&S Code 11053-11059
Lab. Code 230.7
Pen. Code 240
Pen. Code 241.2
Pen. Code 242
Pen. Code 243.2
Pen. Code 243.4
Pen. Code 245
Pen. Code 245.6
Pen. Code 261
Pen. Code 266c
Pen. Code 286
Pen. Code 287

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[Privileged communication](#)
[Defamation liability](#)
[Production of evidence; means of production](#)
[Program for expelled students; facilities](#)
[Enrollment of students in community school](#)
[Sexual harassment](#)
[Hate violence](#)
[Interagency School Safety Demonstration Act of 1985](#)
[Open board meetings](#)
[Closed sessions regarding suspensions](#)
[Rules for government and discipline of schools](#)
[Rules and procedures on school discipline](#)
[Former juvenile court school students; enrollment](#)
[Community day schools](#)
[Foster youth](#)
[Suspension and expulsion](#)
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[Parent/Guardian notifications](#)
[Privacy of student records](#)
[Numerically significant student subgroups](#)
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[Consolidated application](#)
[Prohibition against expulsion of preschool student](#)
[Informal hearing procedures](#)
[The Ralph M. Brown Act](#)
[Drug paraphernalia](#)
[Controlled substances; standards and schedules](#)
[Employee time off to appear in school on behalf of a child](#)
[Assault defined](#)
[Assault fines](#)
[Battery defined](#)
[Battery on school property](#)
[Sexual battery](#)
[Assault with deadly weapon](#)
[Hazing](#)
[Rape defined](#)
[Unlawful sexual intercourse](#)
[Sodomy defined](#)
[Oral Copulation](#)

State References

Pen. Code 288
 Pen. Code 289
 Pen. Code 31
 Pen. Code 417.27
 Pen. Code 422.55
 Pen. Code 422.6
 Pen. Code 422.7
 Pen. Code 422.75
 Pen. Code 626.10
 Pen. Code 626.2
 Pen. Code 626.9
 Pen. Code 868.5
 W&I Code 224.1
 W&I Code 729.6

Description

[Lewd or lascivious acts with child under age 14](#)
[Penetration of genital or anal openings](#)
[Principal of a crime; defined](#)
[Laser pointers](#)
[Definition of hate crime](#)
[Crimes; harassment](#)
[Aggravating factors for punishment](#)
[Enhanced penalties for hate crimes](#)
[Dirks, daggers, knives, razors, or stun guns](#)
[Entry upon campus after written notice of suspension or dismissal without permission](#)
[Gun-Free School Zone Act of 1995](#)
[Supporting person; attendance during testimony of witness](#)
[Indian child; definition](#)
[Counseling](#)

Federal References

18 USC 921
 20 USC 1415(K)
 20 USC 7961
 42 USC 11431-11435

Description

Definitions; firearms and ammunition
 Students with disabilities; placement in alternative educational setting
 Gun-Free Schools Act
 Education of homeless children and youths

Management Resources References

Attorney General Opinion
 Attorney General Opinion
 Attorney General Opinion
 Attorney General Opinion
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 Court Decision
 U.S. DOE & U.S. DOJ Civil Rights Divisions Pub
 U.S. DOE Publication
 U.S. DOE Publication
 Website
 Website

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80 Ops.Cal.Atty.Gen. 348 (1997)
 80 Ops.Cal.Atty.Gen. 85 (1997)
 80 Ops.Cal.Atty.Gen. 91 (1997)
 84 Ops.Cal.Atty.Gen. 146 (2001)
 Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321
 Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182
 Garcia v. Los Angeles Board of Education (1981) 123 Cal. App. 3d 807
 John A. v. San Bernardino School District (1982) 33 Cal. 3d 301
 T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267
 Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
[Resource on Confronting Racial Discrimination in Student Discipline, May 2023](#)
[School Climate and Student Discipline Resources](#)
[Guiding Principles for Creating Safe, Inclusive, Supportive, and Fair School Climates, March 2023](#)
[CSBA District and County Office of Education Legal Services](#)
[U.S. Department of Education, Office of Safe and Healthy Students](#)

Management Resources References

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| Website | California Attorney General's Office |
| Website | California Department of Education |
| Website | CSBA |
| Website | U.S. Department of Education, Office for Civil Rights |

Cross References

| | Description |
|-----------------|---|
| 0450 | Comprehensive Safety Plan |
| 0450 | Comprehensive Safety Plan |
| 0460 | Local Control And Accountability Plan |
| 0460 | Local Control And Accountability Plan |
| 1114 | District-Sponsored Social Media |
| 1114 | District-Sponsored Social Media |
| 1312.3 | Uniform Complaint Procedures |
| 1312.3 | Uniform Complaint Procedures |
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| 1312.3-E PDF(2) | Uniform Complaint Procedures |
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| 3513.3 | Tobacco-Free Schools |
| 3513.3 | Tobacco-Free Schools |
| 3513.4 | Drug And Alcohol Free Schools |
| 3515 | Campus Security |
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| 3515.4 | Recovery For Property Loss Or Damage |
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| 5000 | Concepts And Roles |
| 5112.1 | Exemptions From Attendance |
| 5112.1 | Exemptions From Attendance |
| 5112.5 | Open/Closed Campus |
| 5113 | Absences And Excuses |
| 5113 | Absences And Excuses |
| 5113.1 | Chronic Absence And Truancy |
| 5113.1 | Chronic Absence And Truancy |
| 5113.11 | Attendance Supervision |

Cross References**Description**

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| 5116.2 | Involuntary Student Transfers |
| 5117 | Interdistrict Attendance |
| 5117 | Interdistrict Attendance |
| 5119 | Students Expelled From Other Districts |
| 5125 | Student Records |
| 5125 | Student Records |
| 5125.2 | Withholding Grades, Diploma Or Transcripts |
| 5131 | Conduct |
| 5131.1 | Bus Conduct |
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| 5131.4 | Student Disturbances |
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| 5131.5 | Vandalism And Graffiti |
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| 5131.62 | Tobacco |
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| 5131.63 | Steroids |
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| 5131.7 | Weapons And Dangerous Instruments |
| 5142 | Safety |
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| 5144.2 | Suspension And Expulsion/Due Process (Students With Disabilities) |
| 5144.4 | Required Parental Attendance |
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| 5145.12 | Search And Seizure |
| 5145.2 | Freedom Of Speech/Expression |
| 5145.2 | Freedom Of Speech/Expression |
| 5145.3 | Nondiscrimination/Harassment |
| 5145.3 | Nondiscrimination/Harassment |
| 5145.6 | Parent/Guardian Notifications |
| 5145.6-E(1) | Parent/Guardian Notifications |
| 5145.7 | Sex Discrimination and Sex-Based Harassment |
| 5145.7 | Sex Discrimination and Sex-Based Harassment |

Cross References**Description**

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|-----------------|---|
| 5145.71 | Title IX Sex Discrimination and Sex-Based Harassment Complaint Procedures |
| 5145.9 | Hate-Motivated Behavior |
| 5148.3 | Preschool/Early Childhood Education |
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