

SUSPENSION AND EXPULSION/DUE PROCESS

The Board of Education has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

Expulsion is an action taken by the Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, expulsion shall be used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to self or others.

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

Zero Tolerance

The Board supports a zero tolerance approach to serious offenses in accordance with state and federal law. This approach makes the removal of potentially dangerous students from the classroom a top priority and ensures the standardized treatment of all students. Staff shall immediately report to the Superintendent or designee any incidence of offenses specified in law, Board policy, and administrative regulation as cause for suspension or expulsion.

Student Due Process

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

Supervised Suspension Classroom

The Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours when they are off campus and may fall behind in the coursework. The Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The Superintendent or designee may establish a supervised classroom suspension program which meets the requirements of law for students suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, who pose no imminent danger or threat at school, and for whom an expulsion action has not been initiated.

The Superintendent or designee may examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Required Parental Attendance

The Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Whenever a student is suspended from class by a teacher because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities, or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in the class from which the student was suspended. (Education Code 48900.1)

Before requiring parental attendance, the teacher shall make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is pursuant to law. (Education Code 48900.1)

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The principal or designee shall contact a parent/guardian who does not respond to the request to attend school. The Board recognizes that parent/guardian compliance with this policy may be delayed, modified, or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

Decision Not to Enforce Expulsion Order

In cases where expulsion is mandatory pursuant to Education Code 48915(c), the enforcement of an expulsion order shall not be suspended by the Board. In all other cases of expulsion, the order for expulsion may be suspended by the Board, on case-by-case basis, pursuant to the requirements of law.

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

1981 Enrollment of students in community school

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48667 Community day schools

48900-48927 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

Legal Reference continued: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

PENAL CODE

- 31 Principal of a crime, defined
- 240 Assault defined
- 241.2 Assault fines
- 242 Battery defined
- 243.2 Battery on school property
- 243.4 Sexual battery
- 245 Assault with deadly weapon
- 245.6 Hazing
- 261 Rape defined
- 266c Unlawful sexual intercourse
- 286 Sodomy defined
- 288 Lewd or lascivious acts with child under age 14
- 288a Oral copulation
- 289 Penetration of genital or anal openings
- 626.2 Entry upon campus after written notice of suspension or dismissal without permission
- 626.9 Gun-Free School Zone Act of 1995
- 626.10 Dirks, daggers, knives, razors or stun guns
- 868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

- 729.6 Counseling

UNITED STATES CODE, TITLE 18

- 921 Definitions, firearm

UNITED STATES CODE, TITLE 20

- 7151 Gun free schools

COURT DECISIONS

- T.H. v. San Diego Unified School District* (2004) 122 Cal. App. 4th 1267
- Woodbury v. Dempsey* (2003) 108 Cal. App. 4th 421
- Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H.*, (2001) 85 Cal.App.4th 1321
- Garcia v. Los Angeles Board of Education* (1991) 123 Cal.App.3d 807
- Fremont Union High School District v. Santa Clara County Board* (1991) 235 Cal. App. 3d 1182
- John A. v. San Bernardino School District* (1982) 33 Cal. 3d 301

ATTORNEY GENERAL OPINIONS

- 84 *Ops.Cal.Atty.Gen.* 146 (2001)
- 80 *Ops.Cal.Atty.Gen.* 91 (1997)
- 80 *Ops.Cal.Atty.Gen.* 85 (1997)

Management Resources:

WEB SITES

- CSBA: <http://www.csba.org>
- California Attorney General's Office: <http://www.caag.state.ca.us>
- California Department of Education: <http://www.cde.ca.gov>
- U.S. Department of Education, Office of Safe and Drug-Free Schools:
<http://www.ed.gov/about/offices/list/osdfs/index.html>

SUSPENSION AND EXPULSION/DUE PROCESS

Definitions

Suspension from school means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Board of Education for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

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

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

School day means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian or legal counsel. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

School property, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(t))

Notice of Regulations

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Grounds for Suspension and Expulsion

A student may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense. (Education Code 48900(a))

A student who *aids* or *abets* the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(s))

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence. (Education Code 48900(b))
3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind. (Education Code 48900(c))
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))
7. Stole or attempted to steal school property or private property. (Education Code 48900(g))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

8. Possessed or used tobacco or any products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))
12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm. (Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))
14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4. (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness. (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))
17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Hazing means a method of initiation or preinitiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. *Hazing* does not include athletic events or school-sanctioned events. (Education Code 48900(q))

18. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

A *terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

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

19. Committed sexual harassment as defined in Education Code 212.5. (Education Code 48900.2)

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

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

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. (Education Code 233)

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

22. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel. (Education Code 48900(r))

Bullying means one or more acts by a student or group of students that constitutes sexual harassment pursuant to Education Code 48900.2, as defined in item #19 above; hate violence pursuant to Education Code 48900.3, as defined in item #20 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #21 above. (Education Code 32261)

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. (Education Code 32261)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any district school under the jurisdiction of the Superintendent or principal or within any other school district, including, but not limited to, the following circumstances: (Education Code 48900)

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

The Superintendent or principal may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(u))

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

Removal from Class by a Teacher/Parental Attendance

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in "Grounds for Suspension and Expulsion" above. (Education Code 48910)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

A teacher also may refer a student to the principal or designee for consideration of suspension from school. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

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

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

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

Pursuant to Board policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student
3. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Suspension by Superintendent, Principal, or Principal's Designee

The Superintendent or principal may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Superintendent or principal shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, 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. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

Explosive means a *destructive device* and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or similar device. A *destructive device* includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Secretary of Army as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

Suspension also may be imposed upon a first offense if the Superintendent or principal determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year unless, for purposes of adjustment, the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The district may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or principal's designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

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

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

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

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend the conference. (Education Code 48911)

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

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

Suspension by the Board

The Board may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal, or Principal's Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Supervised Suspension Classroom

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

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

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

Authority to Expel

A student may be expelled only by the Board. The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

The Board may also order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer, or administrative panel, based on either or both of the following finding(s): (Education Code 48915(b) and (e))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Mandatory Recommendation for Expulsion

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal or the Superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive, or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance, as listed in Health and Safety Code 11053-11058, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

Mandatory Recommendation and Mandatory Expulsion

The principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possessing an explosive as defined in 18 USC 921

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

Student's Right to Expulsion Hearing

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (Education Code 48918(a))

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

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

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

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

Rights of Complaining Witness

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

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

1. Receive five days' notice of his/her scheduled testimony at the hearing

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

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

Written Notice of the Expulsion Hearing

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

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).
5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

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

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

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

Conduct of Expulsion Hearing

1. **Closed Session:** Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when 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 closed-circuit television. (Education Code 48918(c))

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

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Any objection raised by the student or the Superintendent or designee to the issuance of subpoenas may be considered by the Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

If the Board determines, or if the hearing officer or administrative panel finds and submits to the Board, that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

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

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

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

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when hearings involve allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
 - a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
 - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the district shall provide a nonthreatening environment.
 - (1) The district shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
 - (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. **Decision Within 10 School Days:** The Board's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

7. **Decision Within 40 School Days:** If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

Alternative Expulsion Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing." (Education Code 48918(d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

In accordance with Board policy, the hearing officer or administrative panel may recommend that the Board suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel shall be taken by the Board at a public meeting. (Education Code 48918(j))

If the Board conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

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

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

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

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

Written Notice to Expel

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

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (Education Code 48900.8)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision Not to Enforce Expulsion Order

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

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board. (Education Code 48918(j)).
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

Right to Appeal

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

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. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

Notifications to Law Enforcement Authorities

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

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Post-Expulsion Placements

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

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

When the placement described above is not available, and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #20-22 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school. (Education Code 48915)

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

Readmission After Expulsion

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

Maintenance of Records

The Board shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

Outcome Data

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

Procedures for Students Not Yet Eligible for Special Education Services

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has engaged in behavior that violated the district's code of student conduct may assert any of the protections under IDEA only if the district *had knowledge* that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5); 34 CFR 300.534)

The district shall be deemed to *have knowledge* that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian has expressed concern to district supervisory or administrative personnel in writing, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 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 to other supervisory district personnel about a pattern of behavior demonstrated by the student.

The district would be deemed to *not have knowledge* that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the district would be deemed to *not have knowledge* if the district conducted an evaluation pursuant to 34 CFR 300.300-300.311 and determined that the student was not an individual with a disability. When the district is deemed to not have knowledge of the 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)

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

Suspension

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

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

The district 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 any of the following circumstances: (34 CFR 300.536)

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

If the removal has been determined to be a *change of placement* as specified in items #1-2 above, the student's IEP team shall determine the appropriate educational services. (34 CFR 300.530)

Services During Suspension

Any student suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed as provided in 34 CFR 300.101(a), so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

If a student with disabilities is excluded from school bus transportation, the student shall be provided with an alternative form of transportation at no cost to the student or his/her parent/guardian, provided that transportation is specified in his/her IEP. (Education Code 48915.5)

Interim Alternative Educational Placement Due to Dangerous Behavior

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

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

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

On the date the decision to take disciplinary action is made, the parents/guardians of the student 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 to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

Manifestation Determination

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

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

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

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

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

If the manifestation review team determines that a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. Determination that Behavior is a Manifestation of the Student's Disability: When the conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment 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 behavior 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 district 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)

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

4. Determination that Behavior is Not a Manifestation of the Student's Disability: If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The student shall receive services to the extent necessary 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. 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)

Due Process Appeals

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

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

If the student's parent/guardian or the district has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

Readmission

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

Suspension of Expulsion

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

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student with a disability, the principal or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of acts by any student with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

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

Report to County Superintendent of Schools

The Superintendent or designee shall report to the County Superintendent 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)

Legal Reference: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)

Legal Reference:

EDUCATION CODE

35146 *Closed sessions (re suspensions)*
35291 *Rules (of governing board)*
48203 *Reports of severance of attendance of disabled students*
48900-48925 *Suspension and expulsion*
56000 *Special education; legislative findings and declarations*
56320 *Educational needs; requirements*
56321 *Development or revision of individualized education program*
56329 *Independent educational assessment*
56340-56347 *Individual education program teams*
56505 *State hearing*

PENAL CODE

245 *Assault with deadly weapon*
626.2 *Entry upon campus after written notice of suspension or dismissal without permission*
626.9 *Gun-Free School Zone Act*
626.10 *Dirks, daggers, knives, razors or stun guns*

UNITED STATES CODE, TITLE 18

930 *Weapons*
1365 *Serious bodily injury*

UNITED STATES CODE, TITLE 20

1412 *State eligibility*
1415 *Procedural safeguards*

UNITED STATES CODE, TITLE 21

812(c) *Controlled substances*

UNITED STATES CODE, TITLE 29

706 *Definitions*
794 *Rehabilitation Act of 1973, Section 504*
CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 *Evaluation and placement*
104.36 *Procedural safeguards*
300.1-300.818 *Assistance to states for the education of students with disabilities, especially:*
300.530-300.537 *Discipline procedures*

COURT DECISIONS

Schaffer v. Weast (2005) 125 S. Ct. 528
Parents of Student W. v. Puyallup School District, (1994 9th Cir.) 31 F.3d 1489
M.P. v. Governing Board of Grossmont Union High School District, (1994) 858 F.Supp. 1044
Honig v. Doe, (1988) 484 U.S. 305

Management Resources:

FEDERAL REGISTER

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

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>
U.S. Department of Education, Office of Special Education Programs:
<http://www.ed.gov/about/offices/list/osers/osep/index.html>

Regulation
approved:

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
Santa Monica, California

QUESTIONING AND APPREHENSION

Law enforcement officers have the right to interview and question students on school premises. When such an interview is requested, the principal or designee shall ascertain the officer's identity, official capacity, and the authority under which he/she acts. If the officer needs to interview or question the student immediately, the principal or designee shall accommodate the process in a way that causes the least possible disruption to the school, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

Except in cases of child abuse or neglect, the principal or designee shall notify the student's parent/guardian when a law enforcement officer requests an interview on school premises.

At the law officer's discretion and with the student's approval, the principal or designee may be present during the interview.

If the law officer finds it necessary to remove the student from school, the principal or designee shall first ascertain the reason for such action. Upon releasing the student, the principal or designee shall immediately attempt to inform the student's parent/guardian.

Personnel responsible for releasing a student from school custody shall exercise extreme diligence to prevent such release to any unauthorized or unidentified person.

Subpoenas

Although subpoenas may legally be served at school, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. In these situations, steps should be taken to ensure a minimum of embarrassment or loss of class time for the student.

Legal Reference: (see next page)

QUESTIONING AND APPREHENSION (continued)

Legal Reference:

EDUCATION CODE

44807 *Duty concerning conduct of pupils*

48264 *Arrest of truants*

48265 *Delivery of truant*

48902 *Notice to law authorities*

48906 *Release of minor pupil to peace officers; notice to parent, guardian or relative*

48909 *Narcotics and other hallucinogenic drugs (re arrest)*

PENAL CODE

830-832.8 *re peace officers*

833-851.85 *re arrests*

1328 *Service of subpoena*

CODE OF REGULATIONS, TITLE 5

303 *Duty to remain at school*

COURT DECISIONS

People v. Burton (1971) 6 Cal. 3d 375

In re Donaldson (1969) 269 Cal. App. 2d 509

Baines v. Brady (1953) 122 Cal. App. 2d 957, 960

In the matter of Paul P., 85 Daily Journal D.A.R. 2594

ATTORNEY GENERAL OPINIONS

54 *Ops. Cal. Atty. Gen.* 96 (1971)

34 *Ops. Cal. Atty. Gen.* 93 (1959)

32 *Ops. Cal. Atty. Gen.* 96 (1958)

QUESTIONING AND APPREHENSION

Protocol For Administrators When Law Enforcement Personnel Question Students

The Superintendent or designee of each school shall ensure that Board Policies and regulations related to student discipline are observed by all school staff, and that disciplinary rules are fairly and consistently enforced, without regard to race, creed, color, gender or sexual orientation.

Each time that representatives of law enforcement question a student on campus, whether they are summoned to a school campus or arrive in the course of their official duties, the principal will observe the following protocol.

Protocol for Administrators When Students are Questioned by Law Enforcement

When a student becomes involved with law enforcement personnel, either as a suspect or a witness, in an incident that occurred outside of school, the law enforcement officer who attempts to question the student during the school day should first be requested to do so at a time when the student is not under the jurisdiction of the school. If that is not possible, the administrator must allow the law enforcement officer to discharge his/her duties on campus. However, administrators must exercise a proper standard of care, which consists of ascertaining the identity and official capacity of the law enforcement officer, the authority under which he/she acts, and the reasons for such action. (34 Ops.Cal.Atty.Gen. 93, 95.)

In all matters involving the police, the role of the administrator is clear: he/she must act to safeguard the students' rights because of his/her in loco parentis relationship.

Whenever students may be questioned by a law enforcement officer, either as a suspect or a witness, whether the law enforcement officer arrives without notice or is summoned by school personnel, the school administrator or designee will observe the following protocol:

1. Complete the Police on Campus Reporting Form. (Board Policy 5144.1) Fax the completed form to the Pupil Services office. Retain one copy in an administrative file created specifically for these reports. Do not put copies in student files.
2. Except in cases of suspected child abuse, call the parents/guardians and inform them that law enforcement officers are on campus, or have been summoned to campus to question their child.
3. Inform the student of his/her right to have an administrator present during questioning.
4. Inform the student of his/her right to have their parents/guardians present at any time during questioning.

QUESTIONING AND APPREHENSION (continued)

5. Inform the student of his/her right against self-incrimination and check for comprehension to insure that the student understands what that means. Students who agree to be questioned may change their minds during questioning, and request the presence of a parent/guardian. This must be construed as the student's desire to invoke his/her Fifth Amendment rights.
6. A student's request to have parents/guardians present must be construed as the student's desire to invoke his/her Fifth Amendment rights. (*People v. Burton* (1971) 6 Cal.3d 375.) A student is not required to answer questions after invoking the Fifth.
7. If the law enforcement officers decide that the student must be removed from campus, it is the responsibility of the administrator to take immediate steps to inform the parents/guardian regarding the release of the student to the law enforcement officers and the place to which he/she is being taken (except in cases of child abuse). (Education Code Section 48906)
8. If it is determined that law enforcement officers must remove a student from campus, it is the responsibility of the administrator to insist that the removal of the student is conducted in such a way that it safeguards the dignity, confidentiality and respect of the student.
9. Representatives of law enforcement may not have access to student records without written parent/guardian permission, subpoena or court order. Please see Pupil Services Bulletin on Confidentiality of Student Records.
10. Administrators who believe there has been misconduct on the part of the law enforcement officers should file a report with the appropriate law enforcement agency and the superintendent.

SEARCH AND SEIZURE

The Board of Education is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items.

The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

Individual Searches

School officials may search any individual student, his/her property, or district property under his/her control when there is a reasonable suspicion that the search will uncover evidence that he/she is violating the law, Board policy, administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation. The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

Any search of a student, his/her property, or district property under his/her control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees.

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

SEARCH AND SEIZURE (continued)

Searches of Multiple Student Lockers/Desks

All student lockers and desks are the property of the district. The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.

Legal Reference:

EDUCATION CODE

32280-32289 *School safety plans*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

48900-48927 *Suspension and expulsion*

49050-49051 *Searches by school employees*

49330-49334 *Injurious objects*

PENAL CODE

626.9 *Firearms*

626.10 *Dirks, daggers, knives or razor*

CALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

COURT DECISIONS

Redding v. Safford Unified School District, (9th Cir. 2008) 531 F.3d 1071

B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260

Jennings v. Joshua Independent School District, (5th Cir. 1989) 877 F.2d 313

O'Connor v. Ortega, (1987) 480 U.S. 709

New Jersey v. T.L.O., (1985) 469 U.S. 325

Horton v. Goose Creek Independent School District, (5th Cir. 1982) 690 F.2d 470

Zamora v. Pomeroy, (10th Cir. 1981) 639 F.2d 662

ATTORNEY GENERAL OPINIONS

83 *Ops.Cal.Atty.Gen.* 257 (2001)

75 *Ops.Cal.Atty.Gen.* 155 (1992)

Management Resources:

NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS

The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999

WEB SITES

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

California Attorney General's Office: <http://caag.state.ca.us>

California Department of Education, Safe Schools: <http://www.cde.ca.gov/lr/ss>

National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

SEARCH AND SEIZURE

Notifications

At the beginning of each school year and upon enrollment, the Superintendent or designee shall inform students and parents/guardians about the district's policies and procedures for searches, including notice regarding:

1. The possibility of random searches of students, their belongings, their vehicles parked on district property, and district properties under a student's control, including lockers or desks
2. The district's contraband dog detection program
3. The use of metal detector scans

In addition, the Superintendent or designee shall ensure that signs are posted at all schools at which metal detectors are to be used to explain that anyone may be scanned by metal detector for guns, knives, or other illegal weapons when on campus or attending athletic or extracurricular events.

FREEDOM OF SPEECH/EXPRESSION

The Board of Education believes that free inquiry and exchange of ideas are essential parts of a democratic education. The Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

On-Campus Expression

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on district or school Internet web sites and online media shall generally be afforded the same protections as in print media.

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950, and other applicable state and federal laws.

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous, or slanderous. Students also are prohibited from making any expressions that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

The use of "fighting words" or epithets is prohibited in those instances where the speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of the material violates the law. (Education Code 48907)

The Superintendent or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats, or intimidation unless constitutionally protected. (Education Code 48950)

Off-Campus Expression

A student shall be subject to discipline for off-campus expression, including expression on off-campus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program. The Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

Legal Reference: (see next page)

FREEDOM OF SPEECH/EXPRESSION (continued)

Legal Reference:

EDUCATION CODE

48907 *Exercise of free expression; rules and regulations*

48950 *Speech and other communication*

51520 *Prohibited solicitations on school premises*

UNITED STATES CODE, TITLE 20

4071-4074 *Equal Access Act*

CALIFORNIA CONSTITUTION

Article 1, Section 2 *Freedom of speech and expression*

U.S. CONSTITUTION

Amendment 1 *Freedom of speech and expression*

COURT DECISIONS

Smith v. Novato Unified School District, (2007) 150 Cal.App.4th 1439

Lavine v. Blaine School District, (2001) 257 F.3d 981

Emmett v. Kirkland School District No. 415, (2000) 92 F.Supp. 2d 1088

J.S. v. Bethlehem Area School District, (2000) 757 A.2d 412 (Pa. Commw. 2000)

Beussink v. Woodland R-IV School District, (1998) 30 F.Supp. 2d 1175

Muller v. Jefferson Lighthouse School, (1996) 98 F.3d 1530

Lovell v. Poway Unified School District, (1996) 90 F.3d 367

Hazelwood School District v. Kuhlmeier, (1988) 108 S. Ct. 562

Leeb v. DeLong, (1988) 198 Cal.App.3d 47

Bethel School District No. 403 v. Fraser, (1986) 478 U.S. 675

Bright v. Los Angeles Unified School District, (1976) 18 Cal. 3d 350

Tinker v. Des Moines Independent Community School District, (1969) 393 U.S. 503

Management Resources:

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Limitations on Student Expression in School-Sponsored Publications, March 4, 1988

WEB SITES

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

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

FREEDOM OF SPEECH/EXPRESSION

School-Sponsored Publications

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

Official school publications includes material produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each principal shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the principal considers material submitted for publication to violate Education Code 48907, he/she shall notify the student, without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the principal's determination from the Superintendent or designee. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

To the extent that the principal or designee believes that the school and district should be disassociated from a particular idea or opinion, the principal may require student articles to include disclaimers.

Distribution of Printed Materials and Petitions by Students

The principal or designee may provide bulletin boards on which students and student organizations may post materials of general interest. Students also may post or distribute handbills, leaflets, and other printed material, whether produced within or outside of the school. Students may collect signatures on petitions concerning school or nonschool issues.

Printed materials or petitions may be distributed only:

1. Before or after school or during lunch time
2. In locations that do not obstruct the normal flow of traffic within the school or at entrances

FREEDOM OF SPEECH/EXPRESSION (continued)

No student shall use coercion to induce any other student or person to accept printed matter or to sign a petition. No funds shall be collected for any material distributed.

Clothing, Buttons, and Badges

Buttons, badges, armbands, and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board policy. No employee shall interfere with this practice on the grounds that the message may be controversial or unpopular with students or faculty.

NONDISCRIMINATION/HARASSMENT

District programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

The Board of Education shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The district may provide male and female students with separate shower rooms and sexual health and HIV/AIDS prevention classes in order to protect student modesty.

The Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Director of Pupil Services
1651 16th Street
Santa Monica, CA 90404
310-450-8338

Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, the principal or any other staff member. Any student who observes an incident of harassment should report the harassment to a school employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

NONDISCRIMINATION/HARASSMENT (continued)

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Superintendent or designee and refer the matter to law enforcement where required.

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex, especially:*

221.5 *Prohibited sex discrimination*

221.7 *School-sponsored athletic programs; prohibited sex discrimination*

48900.3 *Suspension or expulsion for act of hate violence*

48900.4 *Suspension or expulsion for threats or harassment*

48904 *Liability of parent/guardian for willful student misconduct*

48907 *Student exercise of free expression*

48950 *Freedom of speech*

49020-49023 *Athletic programs*

51006-51007 *Equitable access to technological education programs*

51500 *Prohibited instruction or activity*

51501 *Prohibited means of instruction*

60044 *Prohibited instructional materials*

CIVIL CODE

1714.1 *Liability of parents/guardians for willful misconduct of minor*

PENAL CODE

422.55 *Interference with constitutional right or privilege*

CODE OF REGULATIONS, TITLE 5

4621 *District policies and procedures*

4622 *Notice requirements*

4900-4965 *Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

UNITED STATES CODE, TITLE 42

2000d-2000e-17 *Title VI & VII Civil Rights Act of 1964 as amended*

2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 *Prohibition of discrimination on basis of race, color or national origin*

104.7 *Designation of responsible employee for Section 504*

106.8 *Designation of responsible employee for Title IX*

106.9 *Notification of nondiscrimination on basis of sex*

COURT DECISIONS

Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130

Management Resources:

OFFICE OF CIVIL RIGHTS PUBLICATIONS

Notice of Non-Discrimination, January, 1999

Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance, 59 FR 47, March, 1994

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>

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

Policy
adopted:

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
Santa Monica, California

PARENTAL NOTIFICATIONS

The Board of Education recognizes that notifications are essential to effective communication between the school and the home. The Superintendent or designee shall send students and parents/guardians all notifications required by law, including notifications about their legal rights, and any other notifications he/she believes will promote parental understanding and involvement.

The Superintendent or designee shall ensure that notifications which must be sent at the beginning of each academic year include a request that the parent/guardian sign the notice and return it to the school. (Education Code 48981, 48982)

Notifications to parents/guardians shall be written both in English and in the family's primary language when so required by law. Whenever an employee learns that a student's parent/guardian is for any reason unable to understand the district's printed notifications, the principal or designee shall work with the parent/guardian to establish other appropriate means of communication.

Legal Reference: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference:

EDUCATION CODE

- 221.5 Prohibited sex discrimination*
- 231.5 Sexual harassment policy*
- 262.3 Appeals; information re: availability of civil remedies*
- 310 Structured English Immersion Program*
- 17288 Pupils: school buildings*
- 17612 Notification of pesticide use*
- 32255-32255.6 Right to refuse harmful or destructive use of animals*
- 32390 Fingerprint program; contracts; funding; consent of parent/guardian*
- 35178.4 Notice of accreditation status*
- 35183 School dress codes; uniforms*
- 35186 Complaints concerning deficiencies in instructional materials and facilities*
- 35256 School accountability report card*
- 35291 Rules*
- 37616 Consultation*
- 39831.5 School bus rider rules and information*
- 44808.5 Permission to leave school grounds*
- 46010.1 Notice re: excuse to obtain confidential medical services*
- 46014 Regulations regarding absences for religious purposes*
- 46600-46611 Interdistrict attendance agreements especially:*
 - 46601 Failure to approve interdistrict attendance*
- 48000 Minimum age of admission*
- 48070.5 Promotion or retention of students*
- 48205 Absence for personal reasons*
- 48206.3 Pupils with temporary disabilities; individual instruction; definitions*
- 48207 Pupils with temporary disabilities in hospitals outside of school district*
- 48208 Students with temporary disabilities in qualifying hospitals*
- 48216 Immunization*
- 48260.5 Notice to parent re truancy*
- 48263 Referral to SARB or probation department*
- 48432.5 Involuntary transfers of pupils*
- 48904 Liability of parent/guardian for willful pupil misconduct*
 - 48904.3 Withholding grades, diplomas, or transcripts*
- 48906 Notification of release of pupil to peace officer*
- 48911 Notification in case of suspension*
- 48912 Closed sessions; consideration of suspension*
- 48915.1 Expelled individuals: enrollment in another district*
- 48916 Readmission procedures*
- 48918 Rules governing expulsion procedures*
- 48980 Required notification at beginning of term*
 - 48980.3 Notification of pesticide use*
- 48981 Time and means of notification*

Legal Reference continued: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

- 48982 *Signature; return to school; effect of signature*
 - 48983 *Contents of notice*
 - 48984 *Activities prohibited unless notice given*
 - 48985 *Notices to parents in language other than English*
 - 48987 *Child abuse information*
 - 49063 *Notification of parents of their rights*
 - 49067 *Regulations regarding pupil's achievement*
 - 49068 *Transfer of permanent enrollment and scholarship record*
 - 49069 *Absolute right to access*
 - 49070 *Challenging content of records*
 - 49073 *Release of directory information*
 - 49076 *Access to student records*
 - 49077 *Access to information concerning a student in compliance with court order*
 - 49091.14 *Prospectus*
 - 49302 *Parental consent*
 - 49332 *Notifications of retention of object by school personnel; release*
 - 49403 *Cooperation in control of communicable disease and immunization*
 - 49423 *Administration of prescribed medication for pupil*
 - 49451 *Physical examinations: parent's refusal to consent*
 - 49452.5 *Screening for scoliosis*
 - 49456 *Report to parent*
 - 49472 *Medical and hospital services for pupils*
 - 49480 *Continuing medication regimen for nonepisodic conditions*
 - 49510-49520 *Duffy-Moscone Family Nutrition Education and Services Act of 1970*
 - 51229 *Course of study for grades 7-12*
 - 51513 *Personal beliefs*
 - 51938 *Right of parent/guardian notice HIV/AIDS and sexual health instruction*
 - 52164.1 *Census-taking methods; determination of primary language; assessment of language skills*
 - 52164.3 *Notice of reassessment of language skills*
 - 52173 *Consultation with parents or guardians; notice to parents or guardians; withdrawal of pupil*
 - 52244 *Advanced Placement Program*
 - 54444.2 *Migrant education programs; parent involvement*
 - 56301 *Child-find system; policies re: written notification rights*
 - 56321 *Special education: proposed assessment plan*
 - 56329 *Written notice of right to findings; independent assessment*
 - 56341 *Individualized education program team*
 - 56341.5 *Individualized education program team meetings*
 - 56343.5 *IEP meetings*
 - 56346 *Parental notice and consent to special education program*
 - 58501 *Alternative schools: notice required prior to establishment*
 - 60641 *Standardized Testing and Reporting Program*
 - 60850 *High School Exit Examination*
 - 66204 *Certification of high school courses as meeting university admission criteria*
- HEALTH AND SAFETY CODE
- 1596.857 *Right to enter child care facility*
 - 120365 *Immunizations*

Legal Reference continued: (see next page)

PARENTAL NOTIFICATIONS (continued)

Legal Reference: (continued)

HEALTH AND SAFETY CODE (continued)

120370 *Immunizations*

120375 *Immunizations*

120440 *Sharing immunization information*

124085 *Certificate of receipt; health screening and evaluation services; waiver by parent/guardian*

124100 *School districts and private schools; information to parents*

PENAL CODE

627.5 *Hearing request following denial or revocation of registration*

WELFARE AND INSTITUTIONS CODE

18976.5 *Parental notice; right of refusal to participate*

CODE OF REGULATIONS, TITLE 5

863 *Standardized Testing and Reporting Program*

3052 *Behavioral intervention*

3831 *General standards (Gifted and Talented Program)*

4622 *Notice requirements and recipients*

4631 *Responsibilities of the local agency*

11303 *Reclassification of English language learners*

11309 *Parental exception waivers*

11523 *Notice of proficiency examinations*

18066 *Policies and procedures absences for child care*

UNITED STATES CODE, TITLE 20

1232g *Family Educational and Privacy Rights Act*

1415 *Procedural safeguards*

1681-1688 *Title IX, discrimination based on sex or blindness*

6311 *State plans*

6312 *Local education agency plans*

6316 *Academic assessment and local education agency school improvement*

6318 *Parental involvement*

7908 *Armed forces recruiter access to students*

UNITED STATES CODE, TITLE 42

2000d -2000d-7, *Title VI, Civil Rights Act of 1964*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.7 *Student records, annual notification*

99.34 *Student records, disclosure to other educational agencies*

104.36 *Procedural safeguards*

106.9 *Dissemination of policy, nondiscrimination on basis of sex*

300.345 *Parent participation*

300.502 *Independent educational evaluation*

300.503 *Prior written notice*

300.505 *Parental consent*

300.507 *Parent notice due process hearing*

300.523 *Manifestation determination review*

CODE OF FEDERAL REGULATIONS, TITLE 40

763.93 *Management plans*

Students

E 5145.6(a)

PARENTAL NOTIFICATIONS

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
Beginning of each school year	32255-32255.6, 48980	BP 5145.8 AR 5145.8	Right to refrain from harmful or destructive use of animals
Annually by February 1	35256	BP 0510	School Accountability Report Card provided
Beginning of each school year	35291, 48980	AR 5144 AR 5144.1	District and site discipline rules
Beginning of each school year if high school open campus	44808.5, 48980	BP 5112.5	Open campus
Beginning of each school year if Board has adopted resolution allowing such absence	46014, 48980	BP 5113 AR 5113	Absence for religious purposes
Beginning of each school year	48205, 48980	BP 5113 AR 5113	Absence for justifiable personal reasons
Beginning of each school year	48205, 48980	AR 6154	Grade/credit cannot be reduced due to excused absence if work or test has been completed
Beginning of each school year	48206.3, 48207, 48208, 48980	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48216, 48980	BP 5141.31 AR 5141.31	Immunizations

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	48980	AR 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency
Beginning of each school year	48980, 231.5	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 52244	AR 6141.5	Availability of state funds to cover costs of advanced placement exam fees
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year	49063, 49068, 49069; 20 USC 1232g; 34 CFR 99.7	BP 5125 AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine school official legitimate educational interest
Beginning of each school year	49063, 49070	AR 5125 AR 5125.3	Challenge, review and expunging of records
Beginning of each school year	49063, 49073	AR 5125.1	Release of directory information
Beginning of each school year	49063, 49091.14	AR 5020 AR 5125	Availability of course prospectus
Beginning of each school year	49423, 49480, 48980	AR 5141.21	Administration of prescribed medication
Beginning of each school year	49451, 48980	BP 5141.3	Refusal to consent to physical examination
Beginning of each school year	49472, 48980	AR 5143	Availability of insurance

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
I. <u>Annually</u> (continued)			
Beginning of each school year	49510-49520, 48980	BP 3553	Free and reduced price meals
Annually	56301	BP 6164.4	Rights of all parents related to special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501	BP 6181	Alternative schools
Beginning of each school year	20 USC 1681-1688; 42 USC 2000d-2000d-7; 34 CFR 106.9	BP 0410 BP 6178	Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills
Annually	5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies, and identity of coordinator
Beginning of each school year	20 USC 1232h	AR 5022	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing
For districts receiving Title I funds, beginning of each school year	20 USC 6311	AR 4112.24 AR 4222	Right to request information re: professional qualifications of their child's teacher and paraprofessional
Annually to parent, teacher and employee organizations; in absence of organizations, to individuals	40 CFR 763.93	AR 3514	Availability of complete, updated management plan for asbestos-containing material in school buildings

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u>			
At least once before counseling in grades 7-12	221.5, 48980	AR 6164.2	Course selection and career counseling
At beginning of each school year if student has been placed in structured English immersion program	310; 5 CCR 11309	AR 6174	Placement of child in program and opportunity to apply for parental exception waiver
Before high school student attends specialized secondary program on a university campus	17288	None	University campus buildings may not meet Education Code requirements for structural safety
To members of athletic teams	32221.5	AR 5143	Offer of insurance, no-cost and low-cost program options
Before presenting a course using live or dead animals or animal parts	32255-32255.6	BP 5145.8	Right to refrain from harmful or destructive use of animals
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	BP 5142.1	Fingerprinting program
Beginning of each term for students who have not passed the exit exam by the end of grade 12	37254	AR 6179	Availability of intensive instruction and services for two consecutive academic years and right to file complaint
Upon registration, if K-6 students have not previously been transported	39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year in grades 7-12	46010.1	BP 5113	Absence for confidential medical services

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u> (continued)			
Upon admission to school	48216, 49403; Health & Safety Code 120365, 120370, 120375	AR 5141.31	Immunizations
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry
Beginning of each school year in grades 9-12 and when high school student transfers into the district	48980, 60850	AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
When in kindergarten or 1st grade if not previously enrolled in public school	49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of teeth health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	51229, 48980	BP 6143	Explanation of college admission requirements, list of UC and CSU web sites that list certified courses, description of career technical education and CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12	51938, 48980	AR 6142.1	Explanation of sex and HIV/AIDS instruction; right to view A/V materials, who's teaching, request specific Education Code sections, right to excuse
Upon assessment and reassessment of English proficiency and enrollment in program of education for English language learners	52164.1, 52164.3, 52173; 5 CCR 11303	AR 6174	Program of education for English language learners

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
II. <u>At Specific Times During the Student's Academic Career</u> (continued)			
Within 20 working days of receiving results of standardized achievement tests	60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
Annually to each high school student	66204	BP 6143	Copy of list of courses offered that are certified by UC as meeting admission criteria
When child is enrolled in kindergarten	Health & Safety Code 124100	AR 5141.32	Health screening examination
Prior to student participation in gifted and talented program	5 CCR 3831	AR 6172	Gifted and talented student program
Within 30 calendar days of receipt of CELDT results	5 CCR 11511.5	AR 6174	CELDT test results
To students in grades 11 and 12, early enough to enable registration for current fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose another program
III. <u>When Special Circumstances Occur</u>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. <u>When Special Circumstances Occur</u> (continued)			
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a continuous school program	37616	BP 6117	Continuous school program
When interdistrict transfer is requested and not approved or denied within 30 days	46601	AR 5117	Appeal process
When student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When a student is classified a truant	48260.5	AR 5113	Parental obligation
When a truant is referred to a SARB or probation department	48263	AR 5113	Name and address of SARB or probation department and reason for referral
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to involuntary transfer to continuation school
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. <u>When Special Circumstances Occur</u> (continued)			
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
Before holding a closed session re: suspension	48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	48916	AR 5144.1	Description of readmission procedures
10 calendar days before expulsion hearing	48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	48980	BP 6111	When minimum days scheduled after beginning of the school year
When parents request guidelines for filing complaint of child abuse at a school site	48987	BP 1312.1	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	49068	AR 5125	Right to receive copy of student's record and to challenge its content

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. <u>When Special Circumstances Occur</u> (continued)			
Within 24 hours of release of information to a judge or probation officer	49076	AR 5125	Release of student record information to a judge or probation officer for conducting a truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	49452.5	BP 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	BP 5141.3	Vision or hearing test
Before any test questioning personal beliefs	51513	AR 5022	Permission for test, survey questioning personal beliefs
Within 14 days of instruction if arrangement made for guest speaker after beginning of school year	51938	BP 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health & Safety Code 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health & Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. <u>When Special Circumstances Occur</u> (continued)			
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When providing written decision in response to a complaint re: discrimination, special education, or noncompliance with law regulating educational programs	5 CCR 4631	AR 1312.3	Appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
For districts receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"	20 USC 6311	AR 4112.24	Timely notice to parent of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress	20 USC 6312	AR 0520.2	Notice of failure to parents of English language learners
When school identified for program improvement or corrective action	20 USC 6316	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services
For districts with schools that have been identified for program improvement or corrective action, annually	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
When district identified for program improvement	20 USC 6316	AR 0520.3	Explanation status, reasons for identification, how parents can participate in upgrading district

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
III. <u>When Special Circumstances Occur</u> (continued)			
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
For districts with secondary students receiving Title I funds	20 USC 7908	AR 5125.1	Notice that parents may request district to not release name, address, phone number of child to military recruiters without prior written consent
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
IV. <u>Special Education Notices</u>			
Prior to conducting initial evaluation	56301, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when district intending to record	56341.1	AR 6159	Intention to tape record IEP meeting
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request
For student receiving exit exam waiver, prior to receipt of diploma	60852.4	AR 6162.52	Right to FAPE
Before functional behavioral assessment begins	5 CCR 3052	AR 6159.4	Notification and consent
Before modification of behavioral intervention plan	5 CCR 3052	AR 6159.4	Need for modification, right to question modification

PARENTAL NOTIFICATIONS (continued)

When to Notify	Education or Other Legal Code	Board Policy/ Administrative Regulation #	Subject
IV. <u>Special Education Notices</u> (continued)			
Within one school day of emergency intervention or serious property damage	5 CCR 3052	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE	20 USC 1415(c); 34 CFR 300.503	AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d); 34 CFR 300.503	AR 6159.1	Prior written notice and procedural safeguards notice
Registration of complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Child's name, address, school, description of problem, proposed resolution
V. <u>Classroom Notices</u>			
In each classroom in each school	35186	AR/E 1312.4	Complaint rights re: sufficiency instructional materials, teacher vacancy and misassignment, maintenance of facilities, and, for classrooms with grades 10-12, right of students who did not pass the exit exam to receive intensive instruction after completion of grade 12

SEXUAL HARASSMENT

The Board of Education is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

Instruction/Information

The Superintendent or designee shall ensure that all district students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same gender
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the person(s) to whom a report of sexual harassment should be made

Complaint Process

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher, counselor, administrator, or any other school employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Superintendent or designee.

The Superintendent or designee to whom a complaint of sexual harassment is reported shall immediately file a report to the Superintendent with the Confidential Incident Report Form. The Superintendent will determine who will investigate the complaint in accordance with administrative regulation. Where the Assistant Superintendent of Human Resources or

SEXUAL HARASSMENT (continued)

designee and/or independent investigator finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall refer the matter to law enforcement authorities, where required.

Disciplinary Measures

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension, opportunity transfer, and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

Any employee who engages in sexual harassment or misconduct is in violation of this policy and shall be subject to disciplinary measures and shall be reported to law enforcement agencies.

Record-Keeping

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address and prevent repetitive harassing behavior in its schools.

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

By no later than October 31st of each year, the Superintendent shall inform the public via an Information Item in the Board agenda regarding the number of reported student and employee sexual harassment complaints for the previous school year.

Legal Reference: (see next page)

SEXUAL HARASSMENT (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

48900.2 *Additional grounds for suspension or expulsion; sexual harassment*

48904 *Liability of parent/guardian for willful student misconduct*

48980 *Notice at beginning of term*

CIVIL CODE

51.9 *Liability for sexual harassment; business, service and professional relationships*

1714.1 *Liability of parents/guardians for willful misconduct of minor*

CODE OF REGULATIONS, TITLE 5

4900-4965 *Nondiscrimination in elementary and secondary education programs receiving state financial assistance*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Discrimination*

UNITED STATES CODE, TITLE 42

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 *Nondiscrimination on the basis of sex in education programs*

COURT DECISIONS

Reese v. Jefferson School District, (2001) 208 F.3d 736

Davis v. Monroe County Board of Education, (1999) 526 U.S. 629

Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989

Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446

Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447

Oona R.-S. etc. v. Santa Rosa City Schools et al, (1995) 890 F.Supp. 1452

Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143

Clyde K. v. Puyallup School District #3, (1994) 35 F.3d 1396

Patricia H. v. Berkeley Unified School District, (1993) 830 F.Supp. 1288

Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028

Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d 651

Management Resources:

OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERAL

Protecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999

OFFICE OF CIVIL RIGHTS' PUBLICATIONS

Revised Sexual Harassment Guidance, January 2001

Sexual Harassment Guidance, March 1997

WEB SITES

OCR: <http://www.ed.gov/offices/OCR>

SEXUAL HARASSMENT

Prohibited sexual harassment and misconduct includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors or other unwanted verbal, visual or physical conduct of a sexual nature made against another person of the same or opposite gender, in the educational setting. Egregious examples of sexual harassment and misconduct include: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance, or of creating an intimidating, hostile or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any district program or activity

Additionally, any consensual sexual relationship between an employee/volunteer and student, including students who have reached the age of consent, is prohibited.

Types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. Sexual slurs, epithets, threats, verbal abuse, derogatory comments or sexually degrading descriptions
3. Graphic comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures, electronic communication, or gestures
5. Spreading sexual rumors, including those spread via electronic communication
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way

SEXUAL HARASSMENT (continued)

9. Purposefully cornering or blocking normal movements with sexual intent
10. Displaying sexually suggestive objects
11. Homophobic taunts or other slurs related to sexual orientation
12. The conduct includes excessive or repeated touching of a student that is without a clear educational purpose.

Preventing Sexual Harassment and Misconduct

In an effort to prevent the occurrence or perception of sexual misconduct, the following precautions shall be taken by all employees:

1. Employees shall, whenever possible, avoid closed door meetings and before/during/after school hours activities with only one student.
2. On any student trip away from school, there shall be a minimum of two chaperones, preferably a man and a woman.

Notifications

A copy of the district's sexual harassment policy shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)
2. Be displayed in a prominent location in the main administrative building or other area where notices of district rules, regulations, procedures and standards of conduct are posted (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester or summer session (Education Code 231.5)
4. Appear in any school or district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)
5. Be provided to employees and employee organizations

SEXUAL HARASSMENT (continued)

Investigation of Complaints at School (Site-Level Grievance Procedure)

1. The principal shall report a complaint to the Superintendent using the Confidential Incident Report form. Even if no complaint is filed, the principal has a duty to investigate suspected sexual harassment or misconduct.
2. The principal and Superintendent shall determine whether the principal, a designee, or an independent investigator will investigate the complaint. In cases of complaints filed against an employee, an independent investigator shall investigate the complaint. That person shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:
 - a. The student who is complaining
 - b. The person accused of harassment
 - c. Anyone who witnessed the conduct complained of
 - d. Anyone mentioned as having related information
3. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.
4. The principal or designee shall discuss the complaint only with the people described above. If the complaint regards occurrences for which the principal or designee has a reasonable suspicion of child abuse, the principal or designee is mandated to report to law enforcement and/or child protective agencies as per SMMUSD Board Policy and Administrative Regulation 5144.4. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:
 - a. The Superintendent or designee
 - b. The parent/guardian of the student who complained
 - c. If the alleged harasser is a student, his/her parent/guardian
 - d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
 - e. Child protective agencies responsible for investigating child abuse reports

SEXUAL HARASSMENT (continued)

- f. Legal counsel for the district
5. The complainant shall not be required or asked to meet with the alleged harasser or person suspected of sexual misconduct. If the alleged harasser or person suspected of sexual misconduct is a district employee or volunteer, then during the course of the investigation, he/she shall discontinue contact with students.
6. In reaching a decision about the complaint, the Assistant Superintendent of Human Resources or designee and/or independent investigator may take into account:
 - a. Statements made by the persons identified above
 - b. The details and consistency of each person's account
 - c. Evidence of how the complaining student reacted to the incident
 - d. Evidence of any past instances of harassment by the alleged harasser
 - e. Evidence of any past harassment complaints that were found to be untrue
7. To judge the severity of the harassment, the Assistant Superintendent of Human Resources or designee and/or independent investigator may take into consideration:
 - a. How the misconduct affected one or more students' education
 - b. The type, frequency and duration of the misconduct
 - c. The number of persons involved
 - d. The age and gender of the person accused of harassment
 - e. The subject(s) of harassment
 - f. The place and situation where the incident occurred
 - g. Other incidents at the school, including incidents of harassment that were not related to gender
8. The Assistant Superintendent of Human Resources or designee and/or independent investigator shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.

SEXUAL HARASSMENT (continued)

9. The Assistant Superintendent of Human Resources or designee and/or independent investigator shall give the Superintendent or designee a written report of the complaint and investigation. If the principal or designee verifies that sexual harassment occurred, this report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed, and prevent retaliation or further harassment.
10. Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up.

Enforcement

The Superintendent or designee shall take appropriate actions to reinforce the district's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti.
2. Providing staff in-service and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.
4. Notifying child protective services.
5. Taking appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.
6. If an employee is found to be in violation of this policy, disciplinary action shall include, at a minimum, a letter of reprimand, which shall be placed in the employee's personnel file. That letter shall not be expunged under any circumstances.

Support for Students

The Superintendent or designee shall take appropriate actions to provide support for students who have been subjected to sexual harassment and/or misconduct by a district employee or volunteer.

1. The principal or designee will make it clear to the affected student(s) and the parents or guardians that any form of retaliation or mistreatment of a student who complained will not be tolerated.

SEXUAL HARASSMENT (continued)

2. In instances where there were substantiated findings that a student was subjected to sexual harassment/misconduct by a district employee or volunteer, the district will offer, and upon the request of the parent or guardian, will assist the student in receiving therapeutic intervention.

REFUSAL TO HARM OR DESTROY ANIMALS

The Board of Education supports the right of students to refrain from participating in instruction which involves dissecting or otherwise harming or destroying animals when they have a moral objection to such activities.

Students shall not be discriminated against because of a decision to exercise this right. (Education Code 32255.1)

After notifying the teacher of his/her objection pursuant to law and administrative regulations, the student shall be excused from the project and may be provided an appropriate alternative project. The Board encourages staff, whenever possible, to provide an alternative project that teaches the same knowledge and skills as the original project. In any case, staff shall ensure the effective use of students' time by providing instructional activities relevant to the course of study.

Legal Reference:

EDUCATION CODE

32255-32255.6 Student's right to refrain from harmful/destructive use of animals

48980 Parental notification at beginning of term

48981-48984 Method and content of notification; signature required

REFUSAL TO HARM OR DESTROY ANIMALS

At the beginning of each academic year, the district shall notify parents/guardians, in writing, of students' right to refrain from instruction involving harm or destruction of animals. (Education Code 48980, 48981)

In addition, each teacher of a course that uses live or dead animals or animal parts shall inform students of their right to refrain from the harmful or destructive use of animals. (Education Code 32255.4)

Students who wish to refrain from such instruction shall notify the teacher and shall provide a note from their parent/guardian substantiating the objection. (Education Code 32255.1)

A teacher's determination of whether a student may pursue an alternative project or be excused from the project shall not be arbitrary or capricious. (Education Code 32255.3)

If the teacher believes an adequate alternative project is possible, he/she may work with the student to develop and agree upon an alternative project which would provide the knowledge, information or experience required by the course of study. Alternative projects include but are not limited to the use of video tapes, models, films, books and computers. The alternative project shall involve time and effort comparable to that required by the original project. (Education Code 32255, 32255.1)

Students who participate in an alternative project shall pass all course examinations in order to receive course credit. Students may request an alternative test, however, if a regular examination requires the harmful or destructive use of animals. (Education Code 32255.1)

This right shall apply to all K-12 courses, except classes and activities conducted as part of agricultural education that provide instruction on the care, management and evaluation of domestic animals. (Education Code 32255.5, 32255.6)

HATE-MOTIVATED BEHAVIOR

The Board of Education affirms the right of every student to be protected from hate-motivated behavior. It is the intent of the Board to promote harmonious relationships that enable students to gain a true understanding of the civil rights and social responsibilities of people in our society. Behavior or statements that degrade an individual on the basis of his/her race, ethnicity, culture, heritage, gender, sexual orientation, physical/mental attributes, religious beliefs or practices shall not be tolerated.

Any student who feels that he/she is a victim of hate-motivated behavior shall immediately contact the principal or designee. If the student believes that the situation has not been remedied by the principal or designee, he/she may file a complaint in accordance with district complaint procedures.

Staff who receive notice of hate-motivated behavior or personally observe such behavior shall notify the principal, Superintendent or designee, and law enforcement, as appropriate. Students demonstrating hate-motivated behavior shall be subject to discipline in accordance with Board policy and administrative regulation.

In addition, the district shall provide counseling and appropriate sensitivity training and diversity education for students exhibiting hate-motivated behavior. The district shall also provide counseling, guidance and support, as necessary, to those students who are the victims of hate-motivated behavior.

The Superintendent or designee shall ensure that staff receive appropriate training to recognize hate-motivated behavior and methods for handling such behavior in appropriate ways.

The district shall provide age-appropriate instruction to help promote understanding of and respect for human rights.

At the beginning of each school year, students and staff shall receive a copy of the district's policy on hate-motivated behavior.

Legal Reference: (see next page)

HATE-MOTIVATED BEHAVIOR (continued)

Legal Reference:

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

48900.3 *Suspension for hate violence*

PENAL CODE

186.21 *Street terrorism; legislative findings and declarations*

422.55-422.86 *Hate Crimes*

11410-11414 *Terrorism*

13023 *Reports by law enforcement of crimes motivated by race, ethnicity, religion, sexual orientation or physical or mental disability*

13519.6 *Hate crimes, training courses and guidelines*

UNITED STATES CODE, TITLE 18

245 *Federally protected activities*

Management Resources:

CSBA PUBLICATIONS

Protecting Our Schools: Governing Board Strategies to Combat School Violence, 1995

ALAMEDA OFFICE OF EDUCATION & CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

Hate-Motivated Behavior in Schools: Response Strategies for School Boards, Administrators, Law Enforcement and Communities, 1997

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS & NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PUBLICATIONS

Protecting Students from Harassment and Hate Crime: A Guide for Schools, 1999

WEB SITES

CDE: <http://www.cde.ca.gov>

California Association of Human Relations Organizations: <http://www.cahro.org>

United States Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR/index.html>

MARRIED/PREGNANT/PARENTING STUDENTS

The Board of Education recognizes that early marriage, pregnancy or parenting may disrupt a student’s education and increase the chance of a student dropping out of school. The Board therefore desires to provide instruction and services designed to assist in pregnancy prevention. The Board also desires to support male and female expectant and parenting students to attain strong academic and parenting skills and to promote the healthy development of their children.

Married, expectant and parenting students shall have the same educational and extracurricular opportunities as all students. Participation in special programs or schools shall be voluntary.

For school-related purposes, married students under the age of 18 are emancipated minors and have all the rights and privileges of students who are 18, even if the marriage has been dissolved. (Family Code 7002)

Expectant and Parenting Students

The Board is committed to providing to expectant and parenting students and their children a comprehensive, continuous, community-linked program that reflects the cultural and linguistic diversity of the community.

The Superintendent or designee shall collaborate with the County Superintendent of Schools and other community agencies and organizations to ensure that appropriate educational and related support services are available to meet the needs of expectant and parenting students their children.

Expectant and parenting students retain the right to participate in any comprehensive school or educational alternative programs. School placement and instructional strategies for participating students shall be based on the needs and learning styles of individual students. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the individual student and/or child. (Education Code 54745)

In addition to providing a quality education program for expectant and parenting students, the district’s program shall provide parenting education and life skills instruction, special school nutrition supplements for pregnant and lactating students, and a child care and development program on or near the school site for the children of enrolled students. The district’s program may provide other support services authorized by Education Code 54746 as necessary to meet the needs of students and their children. (Education Code 54745)

Pregnancy Prevention Program

The Superintendent or designee shall ensure that age-appropriate, culturally sensitive and community-sensitive instruction and services are available to assist in the prevention of pregnancy among minors. The district’s program shall be based on strategies that have proven effective in reducing the incidence of pregnancy among school-age youth. Instruction shall be consistent with the district’s family life/sex education curriculum.

Legal Reference: (see next page)

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

Legal Reference:

EDUCATION CODE

2551.3 *Determination of state aid for pregnant minors program*
17293 *School facilities for pregnant/parenting teen programs*
48220 *Compulsory education requirement*
48410 *Persons exempted from continuation classes*
49553 *Nutrition supplements for pregnant/lactating students*
49558 *Confidentiality of applications and records for free or reduced price meals*
51220.5 *Parenting skills and education*
51745 *Independent study*
52610.5 *Enrollment of pregnant and parenting students in adult education*
54740-54749.5 *California School Age Families Education Program (Cal-SAFE)*

FAMILY CODE

7002 *Description of emancipated minor*
7050 *Purposes for which emancipated minor considered an adult*

HEALTH AND SAFETY CODE

124175-124200 *Adolescent and Family Life Act*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.40 *Marital or parental status*

Management Resources:

CDE PUBLICATIONS

Pregnant and Parenting Students: A Report to the Legislature, April 1996

SBE POLICIES

Policy statement on adolescent pregnancy and parenting, July 9, 1993

WEB SITES

CDE: <http://www.cde.ca.gov>

California Department of Health Services: <http://www.dhs.ca.gov>

Department of Social Services: <http://www.dss.cahswnet.gov>

MARRIED/PREGNANT/PARENTING STUDENTS

The Superintendent or designee may grant a student a leave of absence due to pregnancy, childbirth or abortion for as long as it is deemed medically necessary. At the conclusion of the leave, the student shall be reinstated to the status she held when the leave began. (34 CFR 106.40)

A pregnant or parenting student also may request exemption from attendance because of a physical or mental condition or because of personal services that must be rendered to a dependent. (Education Code 48410)

Cal-SAFE Program

A male or female student shall be eligible to enroll in the district's California School Age Families Education (Cal-SAFE) program if he/she: (Education Code 54747, 56026)

1. Is an expectant parent, custodial parent, or noncustodial parent taking an active role in the care and supervision of the child
2. Has not earned a high school diploma or its equivalent
3. Meets one of the following additional conditions:
 - a. Is age 18 years of age or younger.
 - b. Is age 19 and has been continuously enrolled in the program since before his/her 19th birthday. Such a student may be enrolled in the program for one additional semester.
 - c. The student is below age 22 and has an active individualized education plan.

Students shall be enrolled in the program on an open-entry and open-exit basis. (Education Code 54745)

A student shall not be denied initial or continuous enrollment because of having had multiple pregnancies, more than one child, or a change in eligibility status from expectant to parenting. (Education Code 54747)

No fees shall be charged to students or their families for services provided through the district's Cal-SAFE program. (Education Code 54745)

The Superintendent or designee shall complete an intake procedure regarding each student upon entry into the program, and periodically thereafter as necessary, to determine appropriate levels and types of services to be provided. (Education Code 54746)

MARRIED/PREGNANT/PARENTING STUDENTS (continued)

The Superintendent or designee shall provide staff development and conduct community outreach in order to establish a positive learning environment and supportive school policies. (Education Code 54745)

The Superintendent or designee shall participate in the development of the county service coordination plan for providing educational and related support services to expectant and parenting teens and their children. He/she also shall participate in data collection and evaluation of the program. (Education Code 54744, 54745)

Regulation
approved:

SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT
Santa Monica, California

DROPOUT PREVENTION

The Board of Education recognizes that regular school attendance is critical to student learning and achievement. The Board desires to provide a learning environment that engages students, helps them become self-motivated, encourages regular attendance, and enables them to meet district standards and to graduate.

The Superintendent or designee shall develop strategies to identify and serve students at all grade levels who are at risk of dropping out of school. Students may be identified on the basis of indicators such as frequent absenteeism, truancy, or tardiness; below-grade-level achievement; or personal, social, health, or economic concerns that may make a student more likely to drop out of school.

The school site council at each school shall develop a comprehensive school plan for student retention in accordance with law, Board policy, and administrative regulation. The plan shall be designed to help reduce student absenteeism and dropout rates and to improve student achievement.

Outreach Consultants

The Superintendent or designee shall ensure that eligible schools have outreach consultants to help meet the needs of at-risk students.

Priority shall be given to placing outreach consultants in schools that have at least 50 percent of students eligible for the federal free and reduced price lunch program and that are eligible for Title I funds pursuant to 20 USC 6301-6322. (Education Code 41506)

Outreach consultants shall: (Education Code 52890)

1. If hired after January 1, 2004, possess a Dropout Prevention Specialist Certificate from a California State University or enroll in a Dropout Prevention Specialist Certificate program within 90 days of the date of hire
2. Demonstrate knowledge of local alternative educational programs and employ those programs to respond to the differential needs and unique learning styles of students
3. Demonstrate knowledge of local community agencies and community programs to recruit those agencies and programs to assist in the physical or psychological remediation of students
4. Utilize local school programs, options, and opportunities to assist students in locating, securing, or retaining employment
5. Utilize techniques that enhance interpersonal communication, self-understanding, self-disclosure, and depth-level sharing

DROPOUT PREVENTION (continued)

6. Employ appropriate methods to create circumstances necessary so that change is permitted and encouraged in individuals, programs, and institutions
7. Be responsible for supervising, instructing, conducting negotiations with, and advising students and adults

Legal Reference:

EDUCATION CODE

35160 Authority of governing board

41505-41508 Pupil Retention Block Grant

48400-48403 Compulsory continuation education

48430-48438 Continuation education

48660-48667 Community day schools

51745-51749.3 Independent study

52300-52334 Regional Occupational Centers

52890 Qualifications and duties of outreach consultants

54690-54697 Partnership academies

64000-64001 Single plan for student achievement

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52014 Inclusion of activities in plan

52015 Components of plan

52900-52904 Alternative education and work centers for school dropouts

54660-54669 Elementary and Secondary School Dropout Prevention Act

54720-54735 School-based pupil motivation and maintenance program

58550-58562 Educational clinics

UNITED STATES CODE, TITLE 20

6301-6322 Title I programs

Management Resources:

WEB SITES

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

California Dropout Prevention Network: <http://www.edualliance.org/cdpn>

National Dropout Prevention Center: <http://www.dropoutprevention.org>

CHILD CARE AND DEVELOPMENT

The Board of Education desires to provide child care and development services which meet the developmental needs of children, provide an opportunity for parenting students to receive assistance while continuing their education, and offer a convenient child care alternative for parents/guardians in the community.

The Superintendent or designee shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and inform parents/guardians about child care options.

To the extent possible, child care and development services may be made available during the regular school day, before and after normal school hours, during school vacations and intersessions.

These services shall be available to school-age children in grades K-9.

The Superintendent or designee shall ensure that subsidized child care is provided to eligible families to the extent that state and/or federal funding is available and shall establish admissions priorities in accordance with Education Code 8263 and 5 CCR 18106. In addition to priorities for subsidized care, priority for admissions shall be given to district students and children of district employees.

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

The Superintendent or designee shall develop and implement an annual plan for evaluation of the district's child care services which conforms to state requirements. (5 CCR 18279)

Legal Reference: (see next page)

CHILD CARE AND DEVELOPMENT (continued)

Legal Reference:

EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, including:*
8200-8209 *General provisions for child care and development services*
8210-8216 *Resource and referral program*
8220-8226 *Alternative payment program*
8228 *Child care voucher for parents deployed to Iraq*
8230-8233 *Migrant child care and development program*
8235-8237 *State preschool program*
8240-8244 *General child care programs*
8250-8252 *Programs for children with special needs*
8263 *Eligibility and priorities for subsidized child development services*
8340-8346 *Individualized county child care subsidy plan, San Mateo County*
8350-8359.1 *Programs for Cal WORKs recipients*
8360-8370 *Personnel qualifications*
8400-8409 *Contracts*
8460-8480 *School-age community child care services*
8482-8484.6 *After-school education and safety program*
8484.7-8484.8 *21st Century community learning centers*
8485-8488 *Child supervision programs*
8493-8498 *Facilities*
8499-8499.7 *Local planning councils*
8499.10 *Head Start*
17264 *New construction; accommodation of before- and after-school programs*
49540-49546 *Child care food program*
49570 *National School Lunch program*
54740-54749.5 *Cal-SAFE program for pregnant/parenting students and their children*
56244 *Staff development funding*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*
1596.90-1597.21 *Day care centers*
120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

18000-18122 *General provisions, general child care programs*
18130-18136 *State preschool programs*
18180-18192 *Federal and state migrant programs*
18200-18207 *School-age community child care services program*
18210-18213 *Severely handicapped program*
18220-18231 *Alternative payment program*
18240-18248 *Resource and referral program*
18270-18281 *Program quality, accountability*
18290-18292 *Staffing ratios*
18295 *Waiver of qualifications for site supervisor*
18300-18308 *Appeals and dispute resolution*
18400-18405 *CalWORKS child care services*

Legal Reference continued: (see next page)

CHILD CARE AND DEVELOPMENT (continued)

Legal Reference: (continued)

CODE OF REGULATIONS, TITLE 22

101151-101239.2 *General requirements, licensed child care centers, including:*

101151-101163 *Licensing and application procedures*

101212-101231 *Continuing requirements*

101237-101239.2 *Facilities and equipment*

UNITED STATES CODE, TITLE 42

1751-1769 *School lunch programs*

9831-9852 *Head Start programs*

9858-9858q *Child care and development block grant*

CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 *National School Lunch program*

CODE OF FEDERAL REGULATIONS, TITLE 45

98.2-98.93 *Child care and development fund*

COURT DECISIONS

CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4th 892

Management Resources:

CSBA PUBLICATIONS

Preschool for All: Resource and Policy Guide, 2005

CDE PUBLICATIONS

Program Quality Standards and Standards Based on Exemplary Practice for Center-Based Programs and Family Child Care Home Networks, October 2004

Prekindergarten Learning Development Guidelines, 2000

First Class: A Guide for Early Primary Education, 1999

CDE MANAGEMENT BULLETINS

01-06 The Desired Results for Children and Families System, May 31, 2001

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

21st Century Community Learning Centers: Providing Quality Afterschool Learning Opportunities for America's Families, September 2000

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Good Start, Grow Smart, April 2002

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Department of Education, Child Development: <http://www.cde.ca.gov/sp/cd>

California Department of Social Services: <http://www.dss.ca.gov>

Commission on Teacher Credentialing: http://www.ctc.ca.gov/credentialinfo/topics/child_dev.html

National AfterSchool Association: <http://www.nsaca.org>

National Association for the Education of Young Children: <http://www.naeyc.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education: <http://www.ed.gov>

CHILD CARE AND DEVELOPMENT

Licensing

All district child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Program Components

The district's child care and development program shall include but not be limited to:

1. An educational program which: (5 CCR 18273)
 - a. Is developmentally, linguistically and culturally appropriate
 - b. Is inclusive of children with special needs
 - c. Encourages respect for others
 - d. Supports children's physical, cognitive, language, social and emotional development
 - e. Promotes and maintains practices that are healthy and safe
2. A staff development program which: (5 CCR 18274)
 - a. Identifies training needs
 - b. Provides written job descriptions
 - c. Provides an orientation plan for new employees
 - d. Provides staff development opportunities related to the functions in each employee's job description and identified training needs
 - e. Provides for annual written performance evaluations, unless a different frequency is specified in a collective bargaining agreement
 - f. Provides each staff member with information necessary to perform his/her duties

CHILD CARE AND DEVELOPMENT (continued)

3. Parent/guardian involvement and education, including: (5 CCR 18275)
 - a. An orientation for parents/guardians
 - b. At least two individual conferences per year
 - c. Parent/guardian meetings with program staff
 - d. An open-door policy that encourages parents/guardians to participate in the daily activities whenever possible
 - e. A parent/guardian advisory committee to advise the district on issues related to services to families and children
 - f. Sharing of information regarding children's progress
4. A health and social services component which: (5 CCR 18276)
 - a. Identifies the needs of the child and the family for health or social services
 - b. Refers a child and/or family to appropriate agencies in the community as needed
 - c. Conducts follow-up procedures with the parent/guardian to ensure that the needs have been met
5. A community involvement component which includes soliciting community support and providing information to the community regarding available services (5 CCR 18277)
6. A nutrition component which ensures that children in the program have nutritious meals and snacks that meet federal guidelines for child care programs or the National School Lunch program (5 CCR 18278)

Staffing Ratios

The child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292.

CHILD CARE AND DEVELOPMENT (continued)

Admissions

Admissions policies shall include criteria designating those children whose needs can be met by the center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions and a medical assessment requirement. (5 CCR 18105; 22 CCR 101218)

Child care and development services shall accord equal treatment and access to services in accordance with law.

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

Fees

Fees may be charged according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8263; 5 CCR 18108, 18109)

No fees shall be assessed for families whose income level, in relation to family size, is less than the first entry in the fee schedule, whose children are enrolled because of a need for child protective services, or whose children are participating in programs prohibited by law from assessing fees. Eligibility for subsidized child care and development services shall be determined in accordance with Education Code 8263. (Education Code 8250, 8263, 54745; 5 CCR 18110)

Fees shall be collected prior to providing services and shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the district's regulations regarding fee collection at the time of initial enrollment into the program. (5 CCR 18114, 18115)

The Superintendent or designee shall establish a process which includes parents/guardians in determining whether and how much to charge parents/guardians for field trip expenses. This process also shall be used to determine whether to require parents/guardians to provide diapers. (Education Code 8263)

CHILD CARE AND DEVELOPMENT (continued)

Attendance

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. (5 CCR 18065)

Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence and signature of parent/guardian or district representative. (5 CCR 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)
2. Family emergency (Education Code 8208)

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident or is required to appear in court.

3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)
4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of protective services or at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Any absence due to a reason other than the above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

CHILD CARE AND DEVELOPMENT (continued)

Rights of Parents/Guardians

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including but not limited to, the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (22 CCR 101218.1)

The Superintendent or designee shall inform parents/guardians of their right to enter the child care facility without advance notice during normal operating hours or any time their child is receiving services in the facilities.

Records

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services which shall contain the data specified in 5 CCR 18081.

A developmental profile measuring the child's physical, cognitive, social and emotional development shall be completed in accordance with 5 CCR 18272. (Education Code 8203.5; 5 CCR 18272)

CHILD CARE SERVICES FOR PARENTING STUDENTS

Cal-SAFE Program

The district shall provide child care and development services on or near the school site for the children of teen parents enrolled in the district's California School Age Families Education (Cal-SAFE) program. Such services shall be available whenever enrolled teen parents are participating in a school-approved activity during or outside the school day. (Education Code 54743, 54745, 54746)

Participation in the child care and development services shall be voluntary. (Education Code 54746)

No fees shall be assessed for child care and development services provided through the Cal-SAFE program. (Education Code 54745)

Children of teen parents shall be eligible for enrollment from birth to age five years or until they enroll in kindergarten, whichever occurs first, as long as the teen parent is enrolled in the district's Cal-SAFE program. If the teen parent is enrolled in a summer school program or a school program operating more than 180 days, eligibility shall be determined by the parent's hours of enrollment and only for those hours necessary to further the completion of the parent's educational program. (Education Code 54746, 54749)

Before a child is enrolled in the program or allowed on the school campus, he/she shall have a health evaluation form signed by a physician or the physician's designee. Health screening and immunizations shall not be required when the child's parent/guardian annually files a written request pursuant to Education Code 49451 or Health and Safety Code 120365. (Education Code 54746)

The Superintendent or designee shall complete an intake procedure regarding each child upon entry into the program, and periodically as needed thereafter, and shall maintain a developmental profile for each child in order to design a program that meets the child's developmental needs. (Education Code 54746)

Child care and development services shall operate pursuant to applicable sections of Education Code 8200-8498, the Child Care and Development Services Act, and shall meet the health and safety requirements of 22 CCR 101151-10123.92 and 101351-101439.1. (Education Code 54746)

The child care site shall be available as a laboratory for parenting or related courses, with priority given to teen parents enrolled in the district's Cal-SAFE program. (Education Code 54746)

CHILD CARE SERVICES FOR PARENTING STUDENTS (continued)

Legal References:

EDUCATION CODE

8200-8498 *Child Care and Development Services Act*

49451 *Exemption from physical examination*

54740-54749 *Cal-SAFE program for pregnant/parenting students and their children*

HEALTH AND SAFETY CODE

120365 *Exemption from immunization*

CODE OF REGULATIONS, TITLE 22

101151-101239.2 *General licensing requirements for child care centers*

101351-101439.1 *Infant Care Centers*

Management Resources:

WEB SITES

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

AT-RISK STUDENTS

The Board of Education recognizes that personal, social, health, and economic circumstances of children and families sometimes place students at risk of school failure. The Board believes, however, that each student can succeed in meeting district academic standards with appropriate educational programs and support services.

District assessments and ongoing classroom evaluations shall be used to identify students performing below grade-level or at risk of failing to meet district standards. The Superintendent or designee shall develop strategies to address the needs of at-risk students, which may include but are not limited to instructional strategies responsive to the needs of individual students, provision of supplemental instruction outside the regular school day, provision of effective support services, parent involvement, and/or enrollment in an alternative program.

The Superintendent or designee shall ensure that employees are trained to support students and are prepared to implement intervention strategies as needed or to make appropriate referrals.

The Superintendent or designee shall establish a student assistance program to help coordinate the district's learning support programs including education, prevention, early identification, intervention, referral, and support services, into an integrated delivery system.

The district's program for at-risk students shall emphasize coordination between site, district, and community-based programs in order to ensure effective implementation and shared accountability.

Legal Reference:

EDUCATION CODE

- 8800-8807 Healthy Start support services for children*
- 11500-11506 Programs to encourage parent involvement*
- 35160 Authority of governing boards*
- 35183 Gang-related apparel*
- 41505-41508 Pupil Retention Block Grant*
- 41510-41514 School Safety Consolidated Competitive Grant*
- 44049 Report of alcohol or controlled substance abuse*
- 48260-48273 Truancy*
- 48400-48454 Continuation education*
- 48660-48666 Community day schools*
- 49400-49409 Student health*
- 49450-49457 Physical examinations of students*
- 49600-49604 Educational counseling*
- 51266-51266.5 Gang and substance abuse prevention curriculum*
- 51268 Collaboration re drug, alcohol and tobacco prevention*
- 51745-51749.3 Independent study programs*
- 52200-52212 Gifted and Talented Pupil Program*
- 52800-52887 School-Based Program Coordination Act*

Legal Reference continued: (see next page)

AT-RISK STUDENTS (continued)

Legal Reference: (continued)

EDUCATION CODE (continued)

54400-54425 Programs for disadvantaged children

54440-54445 Migrant children

54740-54749.5 California School Age Families

56000-56001 Special education programs

56302 Identification and assessment of needs for individuals with disabilities

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52014 Inclusion of activities in plan

52015 Components of plan

54685-54686.2 Early Intervention for School Success Program

HEALTH AND SAFETY CODE

11802 Joint school-community alcohol abuse primary education and prevention program

120325-120380 Immunizations

121475-121520 Tuberculosis tests for students

124025-124110 Child health and disability prevention program

PENAL CODE

11164-11174.3 Child abuse and neglect reporting

WELFARE AND INSTITUTIONS CODE

4343-4360 Primary intervention programs - mental health

4370-4390 School-based early mental health intervention and prevention

18975-18979 Child abuse prevention training

18986.40-18986.46 Interagency children's services programs

CODE OF REGULATIONS, TITLE 5

11900-11935 Healthy Start program

UNITED STATES CODE, TITLE 20

6301-6578 Title I programs

Management Resources:

WEB SITES

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