

Students

SUSPENSION AND EXPULSION/DUE PROCESS

The Governing Board 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.

(cf. 5144 - Discipline)

Suspended or expelled students shall be denied the privilege of participation in all school sponsored 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 act 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. (Education Code 48915)

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 the administrative regulation.

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)

(cf. 5119 - Students Expelled from Other Districts)

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

Supervised Suspension

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

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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.

The Superintendent or designee shall establish a supervised suspension program which meets the requirements of law for students suspended from a classroom 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 shall 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 among 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.

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

Decision Not to Enforce Expulsion Order

On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

Legal Reference:

EDUCATION CODE

- 212.5 Sexual harassment
- 1981 Enrollment of students in community day school
- 17292.5 Program for expelled students
- 32050 Hazing
- 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

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CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-5496 Ralph M. Brown Act (re closed sessions)

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

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

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)

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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>

Policy

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Revised: 02/15/00

Revised: 06/06/00

Revised: 10/18/05

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California