

**SUSPENSION AND EXPULSION/DUE PROCESS**

The Board of Trustees 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 extracurricular activities during the period of suspension or expulsion.

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

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)

*(cf. 5119 - Students Expelled from Other Districts)*

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

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **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.

The Superintendent or designee shall 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 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 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)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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)

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**

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: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Legal Reference:*

EDUCATION CODE

212.5 Sexual harassment  
1981 Enrollment of students in community 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

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

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

*Legal Reference: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Legal Reference: (continued)*

UNITED STATES CODE, TITLE 20

7151 *Gun free schools*

COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4<sup>th</sup> 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4<sup>th</sup> 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 Trustees 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(s))

**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)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

**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))

*(cf. 5131 - Conduct)*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

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))

*(cf. 5131.6 - Alcohol and Other Drugs)*

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, alcohol 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, i.e., 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 as defined in Education Code 32050. (Education Code 48900(q))
18. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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)

*(cf. 5145.7 - Sexual Harassment)*

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)

*(cf. 5145.9 - Hate-Motivated Behavior)*

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)

*(cf. 5145.3 - Nondiscrimination/Harassment)*

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(r))

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

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

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Truancy)*

### **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)

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.

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

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

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

2. Describe the legal protections afforded to the parent/guardian as an employee under Labor Code 230.7
3. 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
4. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

**Suspension by Superintendent, Principal or Principal's Designee**

The Superintendent, principal or principal's designee 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 designee 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

Suspension also may be imposed upon a first offense if the Superintendent, principal or designee 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, 48912)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

The Superintendent or designee 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 principal, designee or the Superintendent 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 and the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911(b))

This conference may be omitted if the principal, designee or the Superintendent 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 a 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(c))

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.
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. (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.

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*(cf. 9321 - Closed Session Purposes and Agendas)*

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by 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)

### **On-Campus Suspension Program**

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 separate, supervised suspension classroom 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."

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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))

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, 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, or 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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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

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 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 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)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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
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).

*(cf. 5119 - Students Expelled from Other Districts)*

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.

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

*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.
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))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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))

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: While technical rules of evidence do not apply to expulsion hearings, 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 must be supported by substantial evidence that the student committed any of the acts listed in "Grounds for Suspension and Expulsion" above.

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) and (h))

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)
  - a. Any complaining witness shall be given five days' notice before being called to testify.

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

- 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.
- e. If one or both support persons are also witnesses, the hearing shall be conducted according to 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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

- (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))
- 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 as apply to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing."

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 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. (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.

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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))

**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))

*(cf. 9321.1 - Closed Session Actions and Reports)*

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 of the student at the time of review for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service and 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)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

**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(a)-(q), Education Code 48900.2-48900.4, 48900.8, and 48915(c). (Education Code 48900.8)
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: (Education Code 48917)

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.

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status.
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.
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.
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.
6. 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 of Education.
7. 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 of Education. (Education Code 48918(j)).

**Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board of Education. 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 of Education. The district shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

**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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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

*(cf. 6185 - Community Day School)*

When the placement described above is not available, and when the County Superintendent of Schools so certifies, students expelled for acts described in items #6-13 and #18-21 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.

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.

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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)

*(cf. 5119 - Students Expelled from Other Districts)*

*(cf. 5125 - Student Records)*

**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)

**Outcome Data**

The Superintendent or designee shall maintain the following data and report such data annually to the California Department of Education, using forms supplied by the California Department of Education: (Education Code 48900.8, 48916.1)

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

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

**Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been identified as an individual with disabilities pursuant to IDEA and who has violated the district's disciplinary procedures may assert the procedural safeguards granted under this administrative regulation only if the district *had knowledge* that the student was disabled before the behavior occurred. (20 USC 1415(k)(8))

The district shall be deemed to *have knowledge* that the student had a disability if one of the following conditions exists: (20 USC 1415(k)(8); 34 CFR 300.527)

1. The parent/guardian has expressed concern in writing, or orally if the parent/guardian does not know how to write or has a disability that prevents a written statement, that the student is in need of special education or related services.
2. The behavior or performance of the student demonstrates the need for such services, in accordance with 34 CFR 300.7.
3. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.530-300.536.

*(cf. 6164.4 - Identification of Individuals for Special Education)*

4. The teacher of the student or other district personnel has expressed concern about the behavior or performance of the student to the district's director of special education or to other personnel in accordance with the district's established child find or special education referral system.

The district would be deemed to not have knowledge as specified in items #1-4 above if, as a result of receiving such information, the district either conducted an evaluation and determined that the student was not a student with a disability or determined that an evaluation was not necessary and provided notice to the parent/guardian of its determination. (34 CFR 300.527)

If it is determined that the district did not have knowledge that the student was disabled prior to taking disciplinary action against the student, then the student shall be disciplined in accordance with procedures established for students without disabilities. (20 USC 1415(k)(8))

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

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures, 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. (34 CFR 300.527)

### **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) do not constitute a change in placement pursuant to 34 CFR 300.519. (Education Code 48903; 34 CFR 300.520)

The principal or designee shall monitor the number of days, including portions of days, that students with valid individualized education programs (IEP) have been suspended during the school year.

### **Services During Suspension**

Students suspended for more than 10 school days in a school year shall continue to receive services during the term of the suspension, to the extent necessary to provide the student a free and appropriate public education. (20 USC 1412(a)(1)(A); 34 CFR 300.520)

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

*(cf. 3541.2 - Transportation for Students with Disabilities)*

### **Interim Alternative Placement Due to Dangerous Behavior**

A student with a disability may be placed in an appropriate interim alternative educational setting for up to 45 days when he/she commits one of the following acts: (20 USC 1415(k)(1); 34 CFR 300.520)

1. Carries a weapon, as defined in 18 USC 930, to school or to a school function
2. Knowingly possesses or uses illegal drugs while at school or a school function
3. Sells or solicits the sale of a controlled substance while at school or a school activity as identified in 21 USC 812(c), Schedules I-V

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

The student's alternative educational setting shall be determined by the student's IEP team. (20 USC 1415(k)(2))

A hearing officer may order a change in placement of a student with a disability to an appropriate interim educational setting if the hearing officer: (20 USC 1415(k)(2); 34 CFR 300.521, 300.522)

1. Determines that the district has established by substantial evidence, meaning beyond a preponderance of the evidence, that maintaining the current placement of the student is substantially likely to result in injury to the student or others
2. Considers the appropriateness of the student's current placement
3. Considers whether the district has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services
4. Determines that the interim alternative educational setting proposed by school personnel who have met with the student's special education teacher allows the student to:
  - a. Progress in the general curriculum and continue to receive those services and modifications, including those described in his/her IEP, to enable the student to meet the goals of the IEP
  - b. Receive services and modifications designed to address the behavior and ensure that the behavior does not recur

The student may be placed in the interim alternative educational setting for up to 45 days, or until the conclusion of any due process hearing proceedings requested by the parent/guardian. (20 USC 1415(k)(2))

**Behavioral Assessment and Intervention Plan**

Not later than 10 business days after a student has been suspended for more than 10 school days or placed in an alternative educational setting, the district shall convene an IEP team meeting to conduct a functional behavior assessment and implement a behavioral intervention plan. If the student already has a behavioral intervention plan, the IEP team shall review the plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1); 34 CFR 300.520)

*(cf. 6159 - Individualized Education Program)*

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

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

As soon as practicable after developing the behavioral intervention plan and completing the required assessments, the IEP team shall meet to develop appropriate behavioral interventions to address the behavior and shall implement those interventions. (34 CFR 300.520)

**Procedural Safeguards/Manifestation Determination**

The following procedural safeguards shall apply when a student is suspended for more than 10 consecutive school days, when disciplinary action is contemplated for a dangerous behavior as described above, or when a change of placement is contemplated: (20 USC 1415(k)(4); 34 CFR 300.523)

1. The parents/guardians of the student shall be immediately notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504 on the day the decision to take action is made.
2. Immediately if possible, but in no case later than 10 school days after the date of the decision, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action.

At this review, the IEP team and other qualified personnel shall consider, in terms of the behavior subject to the disciplinary action, all relevant information, including: (20 USC 1415(k)(4); 34 CFR 300.523)

- a. Evaluation and diagnostic results, including the results or other relevant information supplied by the student's parents/guardians
- b. Observations of the student
- c. The student's IEP and placement

In relationship to the behavior subject to the disciplinary action, the team shall then determine whether the IEP and placement were appropriate and whether supplementary aids, services, and behavioral intervention strategies were provided consistent with the student's IEP and placement. The team shall also determine that the student's disability did not impair the ability of the student to understand the impact and consequences of the behavior, nor did it impair his/her ability to control the behavior subject to the disciplinary action. (20 USC 1415(k)(4); 34 CFR 300.523)

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

If the team determines that the student's behavior was not a manifestation of his/her disability, then the student may be disciplined in accordance with the procedures for students without disabilities, as long as the student continues to receive services to the extent necessary to provide that student a free and appropriate public education. (20 USC 1415(k)(4); 34 CFR 300.524)

If the team determines that the student's behavior was a manifestation of his/her disability, then the student's placement may be changed only via the IEP process. (20 USC 1415(k)(4))

### **Due Process Appeals**

If the parent/guardian disagrees with a decision that the behavior was not a manifestation of the student's disability or with any decision regarding placement, he/she has a right to appeal the decision. (20 USC 1415(k)(6); 34 CFR 300.525)

If the student's parent/guardian initiates a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student shall remain in the interim alternative setting pending the decision of the hearing officer or the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and district agree otherwise. (34 CFR 300.526)

If school personnel maintain that it is dangerous for the student to be placed in the current placement (placement prior to removal to the interim alternative education setting), during the pendency of the due process proceedings, the Superintendent or designee may request an expedited due process hearing. (34 CFR 300.526)

### **Services During Expulsion**

Expelled students shall continue to receive services during the term of the expulsion to the extent necessary to provide the student a free and appropriate public education. Any alternative program must provide services to the extent necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.121, 300.520)

*(cf. 6158 - Independent Study)*

*(cf. 6185 - Community Day School)*

### **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'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, 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)

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)

*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)*  
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*

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*

300.1-300.756 *Assistance to states for the education of students with disabilities*

COURT DECISIONS

*Parents of Student W. v. Puyallup School District*, (1994 9th Cir.) 31 F.3d 1489

*M.P. v. Board of Trustees of Grossmont Union High School District*, (1994 S.D. Cal.) 858 F.Supp. 1044

*Honig v. Doe*, (1988) 484 U.S. 305

*Doe v. Maher*, (1986) 793 F.2d 1470

*Management Resources:*

FEDERAL REGISTER

34 CFR 300.a *Appendix A to Part 300 - Questions and Answers*

34 CFR 300a1 *Attachment 1: Analysis of Comments and Changes*

WEB SITES

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

USDOE: <http://www.ed.gov>

**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.

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.

*(cf. 5142 - Safety)*

**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**

**Questioning on School Grounds**

The school shall keep a record of any interviews of students by law officers on school premises. Such records shall include the date and time, name and identifying number of the officer, the agency employing the officer and his/her official capacity, the time when he/she arrived and left, the fact that the principal or designee was or was not present during the interview, the reason for the questioning and/or release, and any other pertinent information.

**Apprehension**

Police officers, officers of the juvenile court, and other authorized law enforcement officials have an absolute right to enter a school to take a student into custody or to make an arrest of a student.

If a minor student is removed from school into the custody of a peace officer, the principal or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.

If the student is suspected of being a victim of child abuse, the Superintendent or designee shall give the telephone number and address of the student's parent/guardian to the law enforcement officer, and the officer then has the responsibility of immediately notifying the parent/guardian. (Education Code 48906)

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

The Superintendent or designee shall immediately be notified of the student's removal. This initial verbal notice will be followed by a written report by the principal or designee and shall include the date and time of arrest, the identity, badge number and official capacity of the officer and the reason for release.

**SEARCH AND SEIZURE**

As necessary to protect the health, safety 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 and prohibited items. The Board of Trustees requires that discretion, good judgment and common sense be exercised in all cases of search and seizure.

**Individual Searches**

School officials may search individual students, their property and district property under their control, when there is a reasonable suspicion that the search will uncover evidence that the student is violating the law, Board policy, administrative regulation, or other rules of the district or the school.

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.

*(cf. 5145.11 - Questioning and Apprehension)*

**Student Lockers/Desks**

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.

Because lockers and desks are under the joint control of the student and the district, school officials shall have the right and ability to open and inspect any school locker or desk without student permission or prior notice when they have reasonable suspicion that the search will uncover evidence of illegal possessions or activities or when odors, smoke, fire and/or other threats to health, welfare or safety emanate from the locker or desk.

**Use of Metal Detectors**

The Board believes that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also believes that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

## **SEARCH AND SEIZURE** (continued)

The Superintendent or designee shall establish procedures that ensure that metal detector searches are conducted in a consistent manner that minimizes or eliminates arbitrary and capricious enforcement by school officials.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

### **Use of Drug-Detection Dogs**

In an effort to keep the schools free of drugs, the district may use specially trained nonaggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or Board policy. The dogs may sniff the air around lockers, desks, or vehicles on district property or at district-sponsored events as long as they are not allowed to sniff within the close proximity of any students.

*(cf. 5131.6 - Alcohol and Other Drugs)*

*Legal Reference: (see next page)*

**SEARCH AND SEIZURE (continued)**

*Legal Reference:*

EDUCATION CODE

32280-32288 *School safety plans*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

49050-49051 *Searches by school employees*

49330-49334 *Injurious objects*

PENAL CODE

626.9 *Firearms*

626.10 *Dirks, daggers, knives or razor; bringing into or possession of upon or within public school ground; exception*

COURT DECISIONS

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

*O'Connor v. Ortega*, (1987) 107 S.Ct. 1492

*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:*

WEB SITES

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

CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety>

**SEARCH AND SEIZURE**

**Use of Drug-Detection Dogs**

Drug-detection dogs shall not be used in rooms occupied by persons except for demonstration purposes, with the handler present. When used for demonstration purposes, the dog shall be separated from the students and not allowed to sniff any individual.

Only the dog's official handler shall determine what constitutes an alert by the dog. If the dog alerts on a particular item or place, the student having the use of that item or place, or responsibility for it, shall be called to witness the search. If a dog alerts on a locked vehicle, the student who brought the vehicle onto district property shall be asked to unlock it for inspection.

*(cf. 5131.6 - Alcohol and Other Drugs)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

**Notifications**

At the beginning of each school year and whenever students are assigned lockers, desks or other district property, the Superintendent or designee shall inform students and parents/guardians of the possibility of random searches of students, their belongings and district properties under their control.

**FREEDOM OF SPEECH/EXPRESSION**

The Board of Trustees 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.

*(cf. 6144 - Controversial Issues)*

**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 on-line media shall generally be afforded the same protections as print media.

*(cf. 1113 - District and School Web Sites)*

Students' freedom of expression shall be limited only as allowed by law in order to maintain an orderly school environment and to protect the rights, health and safety of all members of the school community.

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 incite 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)

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

The use of "fighting words" or epithets is prohibited if 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)

*(cf. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

## **FREEDOM OF SPEECH/EXPRESSION (continued)**

(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

### **Off-Campus Expression**

Off-campus student expression, including but not limited to student expression on off-campus Internet web sites, is generally constitutionally protected but shall be subject to discipline when such expression poses a direct threat to the safety of students or school personnel.

Conduct by a student outside of class which for any reason materially disrupts classwork or involves substantial disorder or invasion of the rights of others is not protected by the constitutional guarantee of free speech.

#### *Legal Reference:*

##### EDUCATION CODE

48907 *Exercise of free expression; rules and regulations*

48950 *Speech and other communication*

51520 *Prohibited solicitations on school premises*

##### CALIFORNIA CONSTITUTION

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

##### U.S. CONSTITUTION

Amendment 1 *Freedom of speech and expression*

##### COURT CASES

*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 (E.D. Mo. 1998)

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

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

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

*Perumal et al. v. Saddleback Valley Unified School District*, (1988) 198 Cal.App.3d 64

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

*Collin v. Smith*, (1978) 447 F.Supp.676, *affd.* (1978) 578 F.2d 1197, *cert. den.* (1978) 439 U.S. 916

*Bright v. Los Angeles Unified School District*, (1976) 134 Cal. Rptr. 639, 556 P.2d 1090, 18 Cal. 3d 350

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

#### *Management Resources:*

##### CDE LEGAL ADVISORIES

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

##### NSBA PUBLICATIONS

*Digital Discipline: Off-Campus Student Conduct, the First Amendment and Web Sites*, School Law in Review 2001

**FREEDOM OF SPEECH/EXPRESSION**

**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.

*(cf. 1325 - Advertising and Promotion)*

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 school or at entrances

No student shall use coercion to induce students or any other persons to accept printed matter or to sign petitions. 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 of Trustees policy. No employee shall interfere with this practice on the grounds that the message may be unpopular with students or faculty.

*(cf. 5132 - Dress and Grooming)*

*(cf. 5136 - Gangs)*

**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.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 6164.6 - Identification and Education under Section 504)*

The Board of Trustees 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.

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6164.2 - Guidance/Counseling Services)*

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.

*(cf. 5145.2 - Freedom of Speech/Expression)*

*(cf. 5145.7 - Sexual Harassment)*

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.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 5131 - Conduct)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

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

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

Superintendent  
32248 Crown Valley Road  
Acton, CA 93510  
661-269-0750

**NONDISCRIMINATION/HARASSMENT** (continued)

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

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.

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: (see next page)*

## **NONDISCRIMINATION/HARASSMENT (continued)**

### *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*

#### CODE OF REGULATIONS, TITLE 5

4621 *District policies and procedures*  
4622 *Notice requirements*

#### PENAL CODE

422.55 *Interference with constitutional right or privilege*

#### 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>

**PARENTAL NOTIFICATIONS**

The Board of Trustees 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.

*(cf. 5020 - Parent Rights and Responsibilities)*

*(cf. 5022 - Student and Family Privacy Rights)*

*(cf. 5124 - Communication with Parents/Guardians)*

*(cf. 6020 - Parent 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 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.

*(cf. 6174 - Education for English Language Learners)*

*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*
- 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*
- 48204 Residency requirements for school attendance*
- 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*
- 48213 Notice to parent or guardian*
- 48216 Immunization*
- 48260.5 Notice to parent re truancy*
- 48263 Referral to SARB or probation department*
- 48432.5 Involuntary transfers of pupils*
- 48637.1 Notice of intended assignment*
- 48900.1 Attendance of parent or guardian for portion of school day*
- 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*
  - 51513 *Personal beliefs*
  - 51870.5 *Internet access policy*
  - 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*
  - 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 Exam*
- 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 (HS)

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 educational agency plans

6316 Academic assessment and local educational 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**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b>			
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	35256	BP 0510 AR 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	35291, 48900.1, 48980	BP 5144.1 AR 5144.1	Required parental attendance
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 year reduced due to excused absence if work or test has been completed

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b> (continued)			
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
Beginning of each school year	48980	AR 5116.1	All statutory attendance options and available local attendance options
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 for districts connected to the Internet	48980, 51870.5	AR 6163.4	Policy on student access to the Internet
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 5125 AR 5020	Availability of course prospectus

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b> (continued)			
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
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	Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills
Annually	5 CCR 4622	AR 1312.3	Uniform complaint procedures and available appeals and civil law remedies; identity of coordinators
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)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b> (continued)			
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
<b>II. <u>At Specific Times During the Student's Academic Career</u></b>			
At least once before counseling in grades 7-12	221.5, 48980	BP 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
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
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 in a school bus light danger zones, walking to and from stops

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b> (continued)			
Beginning of each school year in grades 7-12	46010.1	BP 5113	Absence for confidential medical services
Upon admission to school	48216, 49403; Health and Safety Code 120365, 120370 and 120375	AR 5141.31	Immunizations
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry
Before assigning student to opportunity school/class/program	48637.1	BP 6182 AR 6182	Assignment to an opportunity school/class/program
Beginning of each school year in grades 9-12 and when high school student transfers into the district	48980, 60850	AR 6146.1 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
Prior to child participation in child abuse prevention program	51550; Welfare and Institutions Code 18976.5	BP 5141.41	Child abuse prevention programs
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
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

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b> (continued)			
When child is enrolled in kindergarten	Health and Safety Code 124085, 124100	BP 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 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
<b>III. <u>When Special Circumstances Occur</u></b>			
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
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
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 Board denies transfer into district based on parent employment	48204	AR 5111.12	Denial of admission and rationale
When excluding a student from attendance	48213	AR 5112.2	Reasons for exclusions; parental rights
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
When teacher requires parental attendance	48900.1	AR 5144.1	Parent/guardian attendance pursuant to law
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

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
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
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	AR 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

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
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
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
Before student serves on safety patrol	49302	AR 5142.2	Parental consent
When injurious object is taken from student	49332	AR 5131.7	Weapons and dangerous objects
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
When a district with junior/ high schools does not provide medical/hospital services for injured athletic students	49471	AR 5143	Unavailability of services
Before any test questioning personal beliefs	51513	AR 5022	Permission for test, survey questioning personal beliefs
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
When child participates in licensed child care and development program	Health & Safety 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health & Safety Code 120440	AR 5125	The name and address of the agency; acceptable use of the information; right to examine; right to refuse to share
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 laws 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
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
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 ELL students

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
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
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6171	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
Within 15 days of referral for assessment, for special education programs	56321	AR 6164.4	Proposed assessment plan and related parental rights
<b>IV. <u>Special Education Notices</u></b>			
Upon completion of administration of assessment	56329; 34 CFR 300.502	AR 6164.4	IEP meeting scheduled and determination at meeting
If parent disagrees with assessment	56329, 34 CFR 300.502	AR 6164.4	Right to obtain independent educational assessment
24 hours before IEP when intending to tape record	56341	AR 6159	Intention to tape record IEP meeting
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. <u>Special Education Notices</u></b> (continued)			
Prior to participation in special education	56346	AR 6159	Notice of IEP meetings, why participation necessary
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
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 or placement	20 USC 1415(c) 34 CFR 300.503	AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d)	AR 6159.1	Procedural safeguards notice
Notification of IEP meeting	20 USC 1415(d)	AR 6159.1	Procedural safeguards notice
Reevaluation of student	20 USC 1415(d)	AR 6159.1	Procedural safeguards notice
Registration of complaint	20 USC 1415(d)	AR 6159.1	Procedural safeguards notice
Suspension for more than 10 days or disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.523	AR 5144.2	Decision
Change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.523	AR 5144.2	Decision

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. <u>Special Education Notices</u></b> (continued)			
Early enough to ensure opportunity for parent to attend IEP meeting	34 CFR 300.345	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
Upon requesting a due process hearing	34 CFR 300.507	AR 6159.1	Child's name, address, school, description of problem, proposed resolution

**SEXUAL HARASSMENT**

The Board of Trustees 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

*(cf. 5131.5 - Vandalism, Theft and Graffiti)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

**Complaint Process**

Any student who feels that he/she is being or has been subjected to sexual harassment shall immediately contact his/her teacher or any other 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.

## **SEXUAL HARASSMENT (continued)**

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee 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 file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

*(cf. 1312.1 - Complaints Concerning District Employees)*

### **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 through 12, disciplinary action may include suspension and/or expulsion, provided that in imposing such discipline the entire circumstances of the incident(s) shall be taken into account.

### **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)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*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 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, when: (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

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 verbal comments about an individual's body, or overly personal conversation
4. Sexual jokes, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
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
9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects

**SEXUAL HARASSMENT** (continued)

**Notifications**

A copy of the district's sexual harassment policy and regulation 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)

*(cf. 5145.6 - Parental Notifications)*

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

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

1. The principal or designee 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
2. 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.
3. The principal or designee shall discuss the complaint only with the people described above. 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:

**SEXUAL HARASSMENT** (continued)

- 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
- (cf. 5141.4 - Child Abuse Prevention and Reporting)*
- f. Legal counsel for the district
4. When the student who complained and the alleged harasser so agree, the principal or designee may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree.
  5. In reaching a decision about the complaint, the principal or designee 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
  6. To judge the severity of the harassment, the principal or designee 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

**SEXUAL HARASSMENT** (continued)

- 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
7. The principal or designee 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.
8. The principal or designee 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.
9. 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 inservice 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.

**REFUSAL TO HARM OR DESTROY ANIMALS**

The Board of Trustees 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)

*(cf. 5145.2 - Freedom of Speech/Expression)*

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)

*(cf. 5145.6 - Parental Notifications)*

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 Trustees 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.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 3515.4 - Recovery for Property Loss or Damage)*  
*(cf. 5131.5 - Vandalism, Theft and Graffiti)*  
*(cf. 5136 - Gangs)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*  
*(cf. 5145.7 - Sexual Harassment)*  
*(cf. 6141.6 - Multicultural Education)*

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.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.3 - Uniform 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.

*(cf. 3515.3 - District Police/Security Department)*  
*(cf. 4158/4258/4358 - Employee Security)*  
*(cf. 5144 - Discipline)*  
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

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.

*(cf. 6164.2 - Guidance/Counseling Services)*

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.

**HATE-MOTIVATED BEHAVIOR** (continued)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

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:*

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*

628-628.1 *School crime reporting*

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: Board of Trustees 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 Trustees 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.

- (cf. 5147 - Dropout Prevention)*
- (cf. 5149 - At-Risk Students)*
- (cf. 6011 - Academic Standards)*
- (cf. 6146.1 - High School Graduation Requirements)*
- (cf. 6146.11 - Alternative Credits Toward Graduation)*
- (cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*

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.

- (cf. 0410 - Nondiscrimination in District Programs and Activities)*
- (cf. 5127 - Graduation Ceremonies and Activities)*
- (cf. 6145 - Extracurricular and Cocurricular Activities)*

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)

**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 delaying the onset of sexual activity and reducing the incidence of pregnancy among school-age youth. Instruction shall be consistent with the district's family life/sex education curriculum.

- (cf. 5141.25 - Availability of Condoms)*
- (cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*
- (cf. 6142.8 - Comprehensive Health Education)*
- (cf. 6143 - Courses of Study)*

*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.ca.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)

*(cf. 5112.3 - Student Leave of Absence)*

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)

*(cf. 5112.1 - Exemptions from Attendance)*

**DROPOUT PREVENTION**

Because high school graduation provides a foundation for postsecondary educational opportunities, successful employment and/or lifelong learning, the Board of Trustees believes that every student in the district should remain in school and meet district standards for graduation. The Board desires to provide a challenging learning environment that encourages school attendance.

The objectives of the district's dropout prevention program shall be to help students become self-motivated, acquire the basic skills necessary for all higher learning and meet district standards at each grade level.

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. These may include students who demonstrate frequent absenteeism, truancy or tardiness, are achieving below grade-level expectations, or may drop out because of personal, social, health or economic reasons.

*(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)*

*(cf. 5149 - At-Risk Students)*

*Legal Reference:*

EDUCATION CODE

*35160 Authority of governing board*

*52300-52331 Regional Occupational Centers*

*52890 Outreach consultants*

*52900-52904 Alternative education and work centers*

*54660-54669 The Elementary and Secondary Dropout Prevention Act of 1969*

*54685-54686.2 The Early Intervention for School Success Program*

*54690-54697 Partnership academies*

*54720-54734 School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act*

*58550-58562 Educational clinics*

*69561 Outreach to increase motivation for low-income fifth and sixth graders*

**CHILD CARE AND DEVELOPMENT**

**Licensing**

Only child care and development services licensed by the California Department of Social Services shall operate in the district, unless exempted pursuant to Health and Safety Code 1596.792.

A program offered before and after school for school-age children shall be exempt from the regulations in 22 CCR 101151-101239.2 if the program is operated by the school and run by qualified district teachers. An outside organization or individual using a district school to operate a child care program is subject to licensure even if the program is open only to the students enrolled at that school. (22 CCR 101158)

**Program Components**

The district's child care and development program shall include: (Education Code 8240; 5 CCR 18274-18278)

1. Age and developmentally appropriate activities for children
2. Supervision
3. Parenting education and parent involvement
4. Social services that include but are not limited to the identification of child and family needs and referral to appropriate agencies
5. Health services

*(cf. 5141.6 - Student Health and Social Services)*

6. Nutrition

*(cf. 3550 - Food Service/Child Nutrition Program)*

7. Training and career ladder opportunities

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

8. Community involvement

The education program shall be developmentally, linguistically and culturally appropriate and shall support children's physical, cognitive, social and emotional development. (5 CCR 18273)

## **CHILD CARE AND DEVELOPMENT (continued)**

*(cf. 0450 - Comprehensive Safety Plan)*

### **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.

### **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 without regard to race, color, religion, national origin or ancestry.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

Eligible children with disabilities shall be given equal access to child care and development services. (Education Code 8250)

*(cf. 6159 - Individualized Education Program)*  
*(cf. 6164.4 - Identification of Individuals for Special Education)*  
*(cf. 6164.6 - Identification and Education Under Section 504)*

The Superintendent or designee shall certify each child's eligibility after reviewing the completed application and documentation contained in the basic data file as well as, but not limited to, verifications of the child's age and district residency based on written documentation provided by the parents/guardians. (5 CCR 18081-18083)

*(cf. 5111 - Admission)*  
*(cf. 5111.1 - District Residency)*

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)

*(cf. 5141.22 - Infectious Diseases)*  
*(cf. 5141.3 - Health Examinations)*  
*(cf. 5141.31 - Immunizations)*

**CHILD CARE AND DEVELOPMENT** (continued)**Fees**

Fees may be charged to families 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)

Fees shall be collected prior to providing services and shall be considered delinquent after seven calendar days. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of 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)

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)

*(cf. 5148.1 - Child Care Services for Parenting Students)*

**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.

**CHILD CARE AND DEVELOPMENT** (continued)

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)

*(cf. 5145.6 - Parent Notifications)*

**Rights of Parents/Guardians**

At the time a child is accepted into care in a licensed child care and development center, the child's parents/guardians 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 advanced 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.

**CHILD CARE AND DEVELOPMENT (continued)**

*(cf. 3580 - District Records)*

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)

*Legal Reference:*

EDUCATION CODE

8200-8498 *Child Care and Development Services Act, especially:*

8200-8209 *General provisions for child care and development services*

8210-8216 *Resource and Referral Program*

8220-8226 *Alternative Payment Program*

8230-8233 *Migrant Child Care and Development Program*

8235-8237 *State Preschool Programs*

8240-8244 *General child care programs*

8250-8252 *Programs for children with special needs*

8263 *Eligibility and priorities for subsidized child development services*

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 *Before and After School Learning and Safe Neighborhoods Partnerships Act*

8488.5-8489.9 *Six By Six before- and after-school program*

8493-8498 *Facilities*

8499-8499.7 *Local planning councils*

17264 *New construction; accommodation of before and after school programs*

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 Program*

18180-18192 *Federal and State Based Migrant Programs*

18200-18208 *School Age Community Child Care Services Program*

18210-18213 *Severely Handicapped Program*

18220-18231 *Alternative Payment Program*

18240-18248 *Resource and Referral Program*

18270-18279 *Program quality, accountability*

18290-18292 *Staffing ratios*

18295 *Waiver of qualifications for site supervisor*

CODE OF REGULATIONS, TITLE 5

18300-18308 *Appeals and dispute resolution*

18400-18405 *CalWORKS child care services*

*Legal Reference: (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

9831-9852 *Head Start programs*

9858-9858q *Child Care and Development Block Grant*

COURT DECISIONS

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

*Management Resources:*

CDE MANAGEMENT BULLETINS

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

CDE PUBLICATIONS

*Prekindergarten Learning and Development Guidelines, 2000*

*First Class: A Guide for Early Primary Education, 1999*

*Here They Come: Ready or Not!, Report of the School Readiness Task Force, 1988*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*21<sup>st</sup> Century Community Learning Centers: Providing Quality Afterschool Learning Opportunities for America's Families, September 2000*

WEB SITES

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

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

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

Commission on Teacher Credentialing: [http://www.ctc.ca.gov/credentialinfo/topics/child\\_dev.html](http://www.ctc.ca.gov/credentialinfo/topics/child_dev.html)

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

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

**AT-RISK STUDENTS**

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

*(cf. 6011 - Academic Standards)*  
*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6146.5 - Elementary/Middle School Graduation Requirements)*

The Superintendent or designee shall develop strategies to address the needs of district students at risk. 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 primary emphasis shall be on prevention and early intervention. The Superintendent or designee also shall ensure that school staff is prepared to implement intervention strategies as needed or to make appropriate referrals.

*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*  
*(cf. 5131.6 - Alcohol and Other Drugs)*  
*(cf. 5136 - Gangs)*  
*(cf. 5141.23 - Infectious Disease Prevention)*  
*(cf. 5141.3 - Health Examinations)*  
*(cf. 5141.31 - Immunizations)*  
*(cf. 5141.32 - Child Health and Disability Prevention Program)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5141.52 - Suicide Prevention)*  
*(cf. 5146 - Married/Pregnant/Parenting Students)*  
*(cf. 5147 - Dropout Prevention)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6164.4 - Identification of Individuals for Special Education)*  
*(cf. 6164.5 - Student Success Teams)*  
*(cf. 6164.6 - Identification and Education under Section 504)*

*Legal Reference: (see next page)*

**AT-RISK STUDENTS (continued)**

*Legal Reference:*

EDUCATION CODE

8800-8807 *Healthy Start support services for children*  
8900-8902 *Pregnant minors program*  
11500-11506 *Programs to encourage parent involvement*  
35160 *Authority of governing boards*  
35183 *Gang-related apparel*  
44049 *Report of alcohol or controlled substance abuse*  
48260-48273 *Truancy*  
48400-48454 *Continuation education*  
48630-48645 *Opportunity schools*  
48660-48666 *Community day schools*  
49400-49409 *Student health*  
49450-49457 *Physical examinations of students*  
49600-49604 *Educational counseling, including:*  
49602 *Confidentiality of student information*  
49604 *Suicide prevention training for school counselors*  
51266-51266.5 *Gang and substance abuse prevention curriculum*  
51268 *Collaboration re drug, alcohol and tobacco prevention*  
51745-51745.3 *Independent study programs*  
52001-52049 *School improvement programs*  
52200-52212 *Gifted and Talented Pupil Program*  
52800-52904 *School-Based Program Coordination Act*  
54400-54425 *Programs for disadvantaged children*  
54440-54445 *Migrant children*  
54685-54686.2 *Early Intervention for School Success Program*  
54720-54734 *School-Based Pupil Motivation and Maintenance Program and Dropout Recovery Act*  
56000-56001 *Special education programs*  
56302 *Identification and assessment of needs for individuals with disabilities*  
58730-58736 *Gang risk intervention programs*

HEALTH AND SAFETY CODE

11802 *Joint school-community alcohol abuse primary education and prevention program*  
11965.5-11967.5 *School-community primary 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*

*Legal Reference continued: (see next page)*

**AT-RISK STUDENTS** (continued)

*Legal Reference continued*

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*

**AT-RISK STUDENTS**

The Superintendent or designee shall identify factors that place students at risk, including but not limited to poverty, homelessness, neglect, abuse, poor health and nutrition, pregnancy, potential language and cultural barriers, substance abuse, gang membership or delinquency, changing family structure, cognitive, emotional and other disabilities, and behavioral problems.

District strategies for addressing the needs of at-risk students may include but are not limited to:

1. Instruction that is responsive to individual student needs, interests and learning styles

*(cf. 6000 - Concepts and Roles)*

*(cf. 6151 - Class Size)*

*(cf. 6159 - Individualized Education Program)*

*(cf. 6164.6 - Identification and Education under Section 504)*

2. Curricula and instructional materials that are relevant and meaningful for students

*(cf. 6030 - Integrated Academic and Vocational Instruction)*

*(cf. 6141 - Curriculum Development and Evaluation)*

3. Integration of the core and supplemental educational programs

*(cf. 0420.1 - School-Based Program Coordination)*

*(cf. 0420.3 - School-Based Student Motivation and Maintenance Program)*

*(cf. 6171 - Title I Programs)*

*(cf. 6172 - Gifted and Talented Student Program)*

*(cf. 6174 - Education for English Language Learners)*

*(cf. 6175 - Migrant Education Program)*

4. Establishment and maintenance of a safe, positive school climate

*(cf. 0450 - Comprehensive Safety Plan)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

5. Availability of effective support services

*(cf. 1020 - Youth Services)*

*(cf. 5141.6 - Student Health and Social Services)*

*(cf. 6164.2 - Guidance/Counseling Services)*

6. Collaboration with other agencies and community organizations in the delivery of services for children and families

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

**AT-RISK STUDENTS** (continued)

7. Parent support and involvement and/or parent education

*(cf. 6020 - Parent Involvement)*

8. Efforts to increase student attendance

*(cf. 5113 - Absences and Excuses)*

9. Availability of resources targeted to meet the needs of at-risk students

*(cf. 3100 - Budget)*

10. Staff development on the identification of student needs and strategies for addressing those needs

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

11. Adult-student connections and activities to help students develop a sense of belonging at school

*(cf. 1240 - Volunteer Assistance)*

*(cf. 6164.5 - Student Success Teams)*

12. Additional instructional assistance, especially efforts that can accelerate learning to help students meet grade-level standards

13. Alternative programs

*(cf. 6158 - Independent Study)*

*(cf. 6181 - Alternative Schools)*

*(cf. 6182 - Opportunity School/Class/Program)*

*(cf. 6183 - Home and Hospital Instruction)*

*(cf. 6184 - Continuation Education)*

*(cf. 6185 - Community Day School)*

14. Ongoing assessment of student outcomes and accountability for student learning

15. Regular evaluation of the effectiveness of programs designed to assist at-risk students

*(cf. 6190 - Evaluation of the Instructional Program)*

*(cf. 9000 - Role of the Board)*

**AT-RISK STUDENTS** (continued)

16. Advocacy at the local, state and/or national levels to improve the conditions of children and families