

Students

SUSPENSION AND EXPULSION/DUE PROCESS

I. GENERAL.

The District shall notify each student's parent at the beginning of each school year of the availability of rules of the District pertaining to student discipline. The principal of each school shall notify students of all rules pertaining to student discipline at the beginning of the school year or at the time of enrollment in the school.

II. DEFINITIONS. (Education Code 48925. All statutory references are to the Education Code unless otherwise noted.)

A. Days.

1. A "day" means a calendar day unless otherwise stated.
2. A "school day" means a day upon which the schools of the District are in session (including during summer school) or weekdays during the summer recess.

B. District. "District" means the Cotati-Rohnert Park Unified School District.

C. Expulsion. "Expulsion" means removal of a student from the immediate supervision and control, or the general supervision, of school personnel, as those terms are used in computing average daily attendance.

D. Governing Board. "Governing Board" means the Governing Board (also known as the Board of Trustees) of the District. "Governing Board" and "Board" are synonymous throughout.

E. Parent. "Parent" means a student's parent or legal guardian.

F. Principal's Designee. (Education Code 48911.) A "principal's designee" is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with disciplinary procedures.

If there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as a "principal's designee" to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal's primary designee for the school year.

An additional certificated person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for the purposes of this article when both the principal and the principal's primary designee are absent from the school site. The name of the person and the names of any person or persons designated as "principal designee" shall be on file in the principal's office.

G. Student. "Student" may include a student's parent, guardian or legal counsel or, for a disabled student, a surrogate parent if one has been appointed for purposes of individualized education plan (IEP) meetings.

- H. Student With Previously Identified Exceptional Needs. "Student with previously identified exceptional needs" means a student who meets the requirements of section 56026 and who, at the time the alleged misconduct occurred, was enrolled in a special education program.
- I. Superintendent. "Superintendent" means the District Superintendent of Schools and/or his or her designee.
- J. School Property. (Education Code 48900 (t).) "School property", for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases.
- J. Suspension. "Suspension" means removal of a student from ongoing instruction for adjustment purposes. However, "suspension" does not mean:
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 Governing Board for students of the same grade level.
 2. Referral to a certificated employee designated by the principal to advise students.
 3. Removal from a class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or the principal's designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five (5) school days.
 4. Behavior management techniques called for in a disabled student's IEP.
 5. Reassignment within the requirements of a disabled student's IEP.

III. SUSPENSION. (Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7)

- A. Grounds for Suspension. A student may not be suspended from school or recommended for expulsion unless the Superintendent or the principal of the school in which the student is enrolled determines that the student has:

1. (a) Caused, attempted to cause, or threatened to cause physical injury to another person. (Education Code 48900 (a)(1).)

(b) Willfully used force or violence upon the person of another, except in self-defense. (Education Code 48900(a)(2).)

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 objects of this type, the student has obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal. (Education Code 48900(b).)

"Firearm" means any device designed to be used as a weapon from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

Examples of "dangerous object" include, but are not limited to: B.B. and pellet guns, air rifles, pepper spray, razors, brass knuckles, fist packs, nunchaku, and any object likely to cause injury to person or property that has no reasonable use at school.

3. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance, as defined in Health and Safety Code 11053-11058, an alcoholic beverage, or an intoxicant of any kind. (Education Code 48900(c).)
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053 – 11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant. (Education Code 48900(d).)
5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e).)
6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f).)
7. Stolen or attempted to steal school property or private property. (Education Code 48900(g).)
8. Possessed or used tobacco, or any products containing tobacco or nicotine products, including but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a student of his or 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. Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, defined in section 11014.5 of the Health and Safety Code. (Education Code 48900(j).)

11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties. (See III.B. for examples of behavior that violate this subsection.) (Education Code 48900(k).)
12. Knowingly received stolen school property or private property. (Education Code 48900(l).)
13. Possessed an imitation firearm. As used in this subsection, "imitation firearm" means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m).)
14. Committed or attempted to commit a sexual assault as defined in Penal Code section 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code section 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 either preventing that student from being a witness and/or retaliating against that student for being a witness, or both. (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 Section 32050. (Education Code 48900 (q).)
18. Committed sexual harassment as defined in section 212.5. The sexual harassment must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 48900.2.)
19. Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of section 233. (Education Code 48900.3.) (See III.C. for examples of hate-motivated behavior.)
20. Intentionally engaged in harassment, threats, or intimidation, directed against a student or group of 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 that student or group of students by creating an intimidating or hostile educational environment. (Education Code 48900.4.)

21. Made a terroristic threat against school officials or school property, or both. "Terroristic threat" includes any statement, whether written or not, by which a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (Education Code 48900.7.)

B. Disruptive Acts. The following are examples of misconduct which is deemed to constitute a violation of section 48900(k) and section III.A.11. (this list is not considered all-inclusive, however):

1. Verbal abuse and/or defiance of a supervisor, teacher, administrator or other District employee engaged in the performance of his or her duties.
2. Intentionally falsifying or misrepresenting material information provided to a District employee or on District records, or altering, defacing, or destroying District records without proper authorization.
3. Gambling.
4. Hazing.
5. Immoral behavior, possession/possession for sale of pornographic materials.
6. Leaving school without permission of school authority or being in a restricted area.
7. Violation of a governmental statute, ordinance or regulation.
8. Violation of the Dress Code, Closed Campus, Computer Use Contract, or any other District Governing Board Policy and/or school regulation.
9. An act of hate-motivated behavior.
10. Engaging in any form of communication that is obscene, libelous, or slanderous.
11. Challenging, provoking, or engaging in unlawful fighting.
12. Sexual harassment as defined in section III.A.14.
13. Violation of regulations regarding possession of an electronic signaling device. (See III.D.)

C.

Hate-motivated Behavior. (Education Code 48900.3.)

1. Hate-motivated behavior is defined as any act or attempted act to cause physical injury, emotional suffering, or property damage through intimidation, harassment, bigoted slurs or epithets, vandalism, force, or threat of force motivated in part or in whole by hostility toward the victim's real or perceived race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.
2. Acts of hate-motivated behavior include, but are not limited to, criminal acts that are statutory violations and (1) posting or circulating demeaning jokes, leaflets, or caricatures; (2) defacing, removing, or destroying posted materials, announcements, or memorials, and the like; (3) distributing or posting hate-group literature and/or posters; (4) using bigoted insults, taunts, or slurs; and (5) possession of hate-group literature, caricatures, and the like.

D. Electronic Signaling Devices. (Education Code 48901.5.) Students may possess or use personal electronic signaling devices, including but not limited to pagers, beepers and cellular/digital telephones while on campus, while attending any school-sponsored activity, or while under the supervision and control of District employee(s) as long as 1) the device is turned off during class time and at any other time directed by a district employee, and 2) it does not disrupt the educational program or school activity. A student who violates this policy may be prohibited from possessing a personal electronic signaling device at school or school-related events and may be subject to discipline including but not limited to suspension, expulsion or transfer to alternative programs. No student shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician or surgeon to be essential for the student's health and the use of which is limited to health-related purposes.

E. Acts Related to School Activity or Attendance. (Education Code 48900r.) No student shall be suspended or expelled for any of the acts enumerated unless such act is related to school activity or school attendance. A student may be suspended or expelled for acts that occur at any time, including, but not limited to, any of the following:

1. While on school grounds;
2. While going to or coming from school;
3. During the lunch period, whether on or off the campus;
4. During, or while going to or coming from, a school sponsored activity; or,
5. While on any other school district's grounds.

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

- G. Truancy/Absences. (Education Code 48900(v).) Truancy, tardiness or other absences from assigned school activities should be dealt with, to the extent feasible, by alternatives other than suspension or expulsion.
- H. Teacher Suspension. (Education Code 48910.)
1. A teacher may suspend a student from the teacher's class for any of the acts enumerated in III.A. for the day of the suspension and the day following.
 2. The teacher shall immediately report the suspension to the principal of the school and send the student to the principal or the principal's designee for appropriate action. If the action requires the continued presence of the student at the school site, the student shall be under appropriate supervision, as defined in policies and related regulations adopted by the Governing Board. As soon as possible, the teacher shall ask the parent of the student to attend a parent-teacher conference regarding the suspension. Whenever practicable, a school counselor or a school psychologist shall attend the conference. A school administrator shall attend the conference if the teacher or the parent so requests. The student shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.
 3. A student suspended from a class shall not be placed in another regular class during the period of suspension. However, if the student is assigned to more than one class per day, this subsection shall apply only to other regular classes scheduled at the same time as the class from which the student was suspended.
 4. A teacher may also refer a student, for any of the acts enumerated in III.A. to the principal or the principal's designee for consideration of a suspension from the school.
- I. Attendance of Suspended Child's Parent for Portion of School Day. (Education Code 48900.1.)
1. A teacher who suspends a student for committing an obscene act, engaging in habitual profanity, disrupting school activities or otherwise willfully defying the valid authority of the teacher or other school personnel, may require the parent to attend a portion of a school day in his or her child's classroom. The attendance of the parent shall be limited to the class from which the student was suspended.
 2. The teacher shall apply this policy uniformly to all students within the classroom.
 3. If a teacher requests a parent to attend school pursuant to this section, the principal shall send a written notice to the parent stating that attendance by the parent is pursuant to law. The notice may specify that the parent's attendance be on the day in which the student is scheduled to return to class, or within a reasonable period of time thereafter.

4. The teacher shall contact parents who do not respond to the request to attend school. The teacher shall attempt to ascertain the reason for not attending, and shall take into account reasonable factors that may prevent compliance.
5. The parents who attend school for the purpose of this policy shall meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the school site.
6. This policy shall apply only to a parent who is actually living with the student.

J. Imposition of Suspension. (Education Code 48900.5.) Suspension shall be imposed only when other means of correction fail to bring about proper conduct. However, a student, including an individual with previously identified exceptional needs, may be suspended upon the first offense if the principal or Superintendent determines that the student violated subdivision 1, 2, 3, 4, or 5 of section III.A. or upon a first offense for any of the reasons enumerated in section III.A. if the principal or Superintendent determines that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

K. Maximum Number of Days of Suspension.

1. Length of Suspension. (Education Code 48911.) The principal of the school, the principal's designee, or the Superintendent may suspend a student from the school for any of the reasons enumerated in III.A. for no more than five (5) consecutive school days, or for no more than ten (10) consecutive schooldays in the case of a student with exceptional needs who poses an immediate threat to the safety of himself or herself or others.
2. Maximum Number of Days Per Year. (Education Code 48903.) Except as provided in III.L.9. or III.M., the total number of days for which a student may be suspended from school shall not exceed 20 school days in any school year, unless for purposes of adjustment, a student enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of school days for which the student may be suspended shall not exceed 30 school 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.

L. Principal and Superintendent Suspension.
(Education Code 48911.)

1. Immediate Suspension. (Education Code 48915(c).) The principal or Superintendent shall immediately suspend, and recommend for expulsion, a student that he or she determines has committed any of the following acts:

- a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the principal's designee. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of the District. (See definition of "firearm" in III.A.2.)
 - b. Brandishing a knife at another person. "Knife" means (1) any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, (2) a weapon with a blade fitted primarily for stabbing, (3) a weapon with a blade longer than 3-1/2 inches, (4) a folding knife with a blade that locks into place, or (5) a razor with an unguarded blade.
 - c. Unlawfully selling a controlled substance listed in Health and Safety Code 11053 - 11058.
 - d. Committing or attempting to commit a sexual assault as defined in III.A.14 or committing a sexual battery as defined in III.A.14.
 - e. Possession of an explosive as defined in 18 USC 921. Explosive means a "destructive device" as described in Section 921 of Title 18 of the United States Code, and includes, but is not limited to: (A) any explosive, incendiary, or poison gas (i) bomb, (ii) grenade, (iii) rocket having a propellant charge of more than four ounces, (iv) missile having an explosive or incendiary charge of more than one-quarter ounce, (v) mine, or (vi) similar device; (B) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (C) any combination of parts either designed or intended for use in converting any device into any destructive device. (Refer to Title 18, Section 921 for specific exclusions.)
2. Pre-suspension Conference. Suspension by the principal, the principal's designee, or the Superintendent shall be preceded by an informal conference conducted by the principal or the principal's designee or the Superintendent between the student, and, whenever practicable, the teacher or supervisor or school employee who referred the student to the principal or the principal's designee or the Superintendent. At the conference the student shall be informed of the reason(s) for the disciplinary action and the evidence against him or her and shall be given the opportunity to present his or her version and evidence in his or her defense.

3. Emergency Suspension. A principal or the principal's designee or the Superintendent may suspend a student without affording the student an opportunity for a conference only if the principal or the principal's designee or the Superintendent determines that an emergency situation exists. "Emergency situation," as used in this section, means a situation determined by the principal, principal's designee or the Superintendent to constitute a clear and present danger to the life, safety, or health of students or school personnel. If a student is suspended without a conference prior to suspension, both the parent and the student shall be notified of the student's right to a conference, and the student's right to return to school for the purpose of a conference. The conference shall be held within two (2) school days, unless the student waives this right or is physically unable to attend for any reason, including, but not limited to incarceration or hospitalization. The conference shall then be held as soon as the student is physically able to return to school for the conference.
4. Notice to Parents.
 - a. At the time of suspension, a school employee shall make a reasonable effort to contact the student's parent in person or by telephone.
 - b. A notice of the suspension shall be mailed to the parent/guardian of the suspended pupil. The notice shall be in the primary language of the parent/guardian insofar as is practicable. The notice shall include the following:
 - i. A statement of the facts leading to the decision to suspend.
 - ii. The date and time when the pupil will be allowed to return to school.
 - iii. A statement of the right of the pupil or parent/guardian to request a meeting with the superintendent or superintendent's designee pursuant to policy Section III (L)(9)(a).
 - iv. A statement of the parent/guardian's or the pupil's right to have access to the pupil's record as provided by Education Code Section 49069.
 - v. A request that the parent/guardian attend the informal conference with school officials regarding the pupil's behavior, including notice that state law requires parent/guardian to respond to such request without delay.
 - c. While the parent/guardian is required to respond without delay to a request for a conference regarding his/her child's behavior, no penalties may be imposed on the pupil for the failure of the parent/guardian to attend such conference, nor may the readmission of the pupil be contingent on the attendance by the pupil's parent/guardian at such conference. (Education Code 48911(f))
5. Report of Suspension. A school employee shall report the suspension of the student, including the cause therefore, to the Superintendent.

6. Parent's Duty. The parent of any student shall respond without delay to any request from school officials to attend a conference regarding his or her child's behavior.
7. Suspension Meeting. (Education Code 48914.) Upon the parent's request, the Site Administrator may meet with the parent of a suspended student to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.
8. Notification of Law Enforcement Authorities. (Education Code 48902.)
 - a. The principal or the principal's designee shall, prior to the suspension of any student, notify the appropriate law enforcement authorities of any acts of the student which may violate section 245 of the Penal Code (relating to assault with a deadly weapon or force likely to produce great bodily injury).
 - b. The principal or designee shall, within one school day after suspension of any student, notify by telephone or other appropriate method the appropriate law enforcement authorities of any act of the student which may violate III.A.3. or III.A.4. (relating to controlled substances, alcohol, intoxicants, and look-alike substances).
 - c. The principal or designee shall notify appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code section 626.9 or 626.10 (relating to possession of weapons on campus), even if the student has not been suspended or expelled.
 - d. A principal or designee reporting a known or suspected act described in III.L.8.a. or III.L.8.b. is not civilly or criminally liable for the report unless it is proven that the report was false and that the person making the report knew it was false or made the report with reckless disregard for the truth.
 - e. The willful failure to make any report required by this section is an infraction punishable by a fine of not more than \$500, to be paid by the principal or principal's designee required to make the report.
9. Meeting with Superintendent or Superintendent's Designee (Education Code 48914.)
 - a. If suspension is ordered by a principal or a principal's designee, the pupil or the pupil's parent/guardian shall have the right to request a meeting with the superintendent or superintendent's designee to discuss the causes, the duration, the school policy involved and other matters pertinent to the suspension.

- b. If, after the meeting the superintendent or superintendent's designee determines that no violation occurred, all records and documentation regarding disciplinary proceedings and suspension shall be destroyed immediately, and no information regarding the meeting shall be placed in the pupil's permanent record file or communicated to any person not directly involved in the disciplinary proceedings. If the determination is that the penalty imposed was inappropriate for the violation, the records and documentation concerning the suspension shall be revised to indicate only the facts leading to any other disciplinary action imposed by the superintendent or the superintendent's designee. (Education Code 48914.)

10. Extension of Suspension.

- a. Non-disabled Students. (Education Code 48911(g).) In a case where expulsion from any school or suspension for the balance of the semester from continuation school is being processed by the Governing Board, the Superintendent or other person designated by the Superintendent in writing may extend the suspension until such time as the Governing Board District has rendered a decision in the action.

If a student or the student's parent has requested a meeting to discuss the original suspension, the Superintendent may determine at that meeting whether to extend the suspension.

An extension may be imposed only if the Superintendent or designee has determined, following a meeting to which the student and the student's parent are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process.

- b. Students With Previously Identified Exceptional Needs. (Education Code 48911(h).) Where the expulsion of a student with previously identified exceptional needs is being processed by the Governing Board, the student's suspension may be extended for up to ten (10) consecutive school days, in accordance with the procedure for extending suspensions for regular students as set forth above, if the student poses an immediate threat to the safety of himself or herself or others. In the case of a truly dangerous child, a suspension may exceed ten (10) consecutive schooldays, or the student's placement may be changed, or both, if:
 - i. The student's parent agrees, and/or
 - ii. A court order so provides.

M. Suspension by the Governing Board. (Education Code 48912.)

1. Length of Suspension. The Governing Board may suspend a student from school for any of the acts enumerated in III.A. for any number of school days within the limits prescribed in III.K.
2. Closed Session. The Governing Board of the District shall, unless a request has been made to the contrary, hold closed sessions when the Board is considering the suspension of, disciplinary action against, or any other action except expulsion in connection with, any student, if a public hearing upon that question would lead to the giving out of information concerning a student which would be in violation of Article 5 (commencing with section 49073) of Chapter 6.5.
3. Notice to Parents of Closed Session. Before calling a closed session to consider these matters, the Board shall, in writing, by registered or certified mail or by personal service, notify the student and the student's parent, or the student if the student is an adult, of the intent of the Board to call and hold a closed session. Unless the student or the student's parent shall, in writing, within 48 hours after receipt of the written notice of the Board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the Board in closed session. If a written request is served upon the Clerk or Secretary of the Board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any student other than the student requesting the public meeting, shall be in closed session.
4. Suspension from Continuation School. (Education Code 48912.5.) 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 enumerated in III.A. occurred.

N. Supervised Suspension Classrooms.
(Education Code 48911.1.)

1. A student who has been suspended for any of the reasons enumerated in section III.A. may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the student poses no imminent danger or threat to the campus, students, or staff, or if an action to expel the student has not been initiated.
2. Students assigned to a supervised suspension classroom shall be separated from other students at the school site for the period of suspension in a separate classroom, building, or site for students under suspension.
3. Each student is responsible for contacting his or her teacher(s) to receive assignments to be completed while the student is assigned to the classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no classroom work is assigned, the person supervising the classroom shall assign schoolwork.

4. At the time the student is assigned to the supervised suspension classroom, a school employee shall notify, in person or by telephone, the student's parent or guardian. Whenever a student is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the student's parent or guardian.
 5. This section does not place any limitation on the District's ability to transfer a student to an opportunity school or class or a continuation education school or class.
- O. Student Work Assignments. The teacher may require the suspended student to complete any assignments and tests missed during the suspension. (Education Code 48913.)
- P. Community Service Alternative. (Education Code 48900.6.) As an alternative to suspension, the Governing Board, the Superintendent, the principal or the principal's designee may require the student to perform community service on school grounds during non-school hours, which may include, but is not limited to, work performed on school grounds in the areas of outdoor beautification, campus betterment, and teacher or peer assistance programs, except in instances where suspension is required by the Education Code.
- Q. Involuntary Transfer to Continuation Schools or a Community Day School. (Education Code 48432.5.)
1. A student who commits an action enumerated in III.A., or has been habitually truant or irregular in attendance from instruction upon which he or she is lawfully required to attend, may be involuntarily transferred to continuation school or community day school.
 2. Involuntary transfer to a continuation school or community day school shall be imposed only when other means fail to bring about student improvement, provided that a student may be involuntarily transferred the first time he or she commits an act enumerated in section III.A. if the principal determines that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.
 3. Before implementing the transfer, the District shall send the student and parent written notice of the opportunity to request a meeting with the Superintendent prior to the transfer.
 4. At the meeting, the student or the student's parents will be informed of the specific facts and reasons for the proposed transfer and will have the opportunity to inspect all documents relied upon, question any evidence and witnesses presented, and present evidence on the student's behalf.
 5. None of the persons involved in making the final decision may be on the staff of the school in which the student is currently enrolled. The District's decision to transfer will be in writing, stating the facts and reasons for the decision, and sent to the student and the student's parents. It shall indicate the process for review of the decision specified in III.Q.6.

6. Involuntary transfers to a continuation school or community day school will be reviewed annually by the Superintendent at the request of the student. The review will take place in a meeting where the student may present information supporting the request to return to the regular program.

R. Exclusion from District Property/Activities. During the period of a suspension, the student shall not enter, or come onto, any District property or grounds, and shall not attend any District or school sponsored activities or events.

IV. **EXPULSION.**

A. Recommendation for Expulsion. (Education Code 48900, 48915.)

1. Mandatory Recommendation. (Education Code 48915(c).) A principal or the Superintendent shall immediately suspend, and shall recommend to the Governing Board to expel, a student that he or she determines has committed any of the following acts:

- a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the principal's designee. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of the District. (See definition of "firearm" in III.A.2.)
- b. Brandishing a knife at another person. (See definition of "knife" in III.L.1.b.)
- c. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058.
- d. Committing or attempting to commit a sexual assault as defined in III.A.14 or committing a sexual battery as defined in III.A.14.
- e. Possession of an explosive as defined in 18 USC 921. (See definition of "explosive" in III.L.1.e.)

2. Mandatory Recommendation Unless Inappropriate. (Education Code 48915(a).) A principal or the Superintendent shall recommend a student's expulsion for any of the following acts, unless the principal or Superintendent finds that expulsion is inappropriate due to the particular circumstance:

- a. Causing serious physical injury to another person, except in self defense.
- b. Possession of any knife, explosive, or other dangerous object of no reasonable use to the student. (See definition of "knife" in III.K.1.b.)

- c. Unlawful possession of any controlled substance listed in Health and Safety Code 11053-11058, except for the first offense of the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - d. Robbery or extortion.
 - e. Assault or battery, as defined in Penal Code sections 240 and 242, upon any school employee. An “assault” is defined as an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another. A “battery” is defined as any willful and unlawful use of force or violence upon the person of another.
3. Discretionary Recommendation. (Education Code 48900, 48900.2, 48900.3, 48900.4.)

Except as provided in IV.A.1. or IV.A.2., the principal or Superintendent may recommend a student's expulsion for the student's commission of any of the acts set forth in III.A.

B. Governing Board Action on Expulsion Recommendation.

- 1. Mandatory Expulsion. (Education Code 48915(d).) The Governing Board shall order a student expelled upon finding that the student committed an act listed in IV.A.1. (relating to firearms, explosives, brandishing a knife, sale of controlled substances and sexual assault and battery).
- 2. Discretionary Expulsion. (Education Code 48915(b), (e).) The Governing Board may order a student expelled upon finding that the student committed an act listed in IV.A.2., or III.A., that is not also listed in IV.A.1., and either of the following:
 - a. Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 - b. Due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.
- 3. Educational Program Requirements for Expelled Students. After ordering the expulsion of a student, the Governing Board shall address the educational program requirements as stated in IV.F.

C. Students with Special Education or Section 504 Needs.
(Education Code 48915.5.)

- 1. Conditions for Expulsion. In a matter involving a student with previously identified exceptional needs who is currently enrolled in a special education or Section 504 program, the Governing Board may order the student expelled only if all of the following conditions are met:

- a. A preexpulsion assessment is conducted as required and the manifestation determination is made.
 - b. With ten (10) school days of the student suspension, the IEP team reviews the student's behavior intervention plan (or develops an assessment plan to address the behavior), and reviews the relationship between the child's disability and the behavior subject to the expulsion.
 - c. The IEP team determines if the conduct in question was caused by or had a direct and substantial relationship to the child's disability or if the conduct in question was the direct result of the local school's failure to implement the I.E.P.
 - d. Due process hearing and appeals, if initiated pursuant to section 1415 of Title 20 of the United States Code, are completed.
2. Parental Consent. Parental consent is not required prior to conducting a preexpulsion educational assessment or as a condition of the final decision of the Governing Board to expel, although the District will take reasonable steps to obtain consent. The parent shall make the student available for the assessment at a site designated by the District without delay. The parent's right to an independent assessment under section 56329 applies despite the fact that the student has been referred for expulsion.
 3. Parent Participation. The parent of each student with previously identified exceptional needs has the right to participate in the IEP team meeting, preceding the commencement of expulsion proceedings, through actual participation, representation, or a conference call. The meeting shall be held at a time and place mutually convenient to the parent and the District, within the period, if any, of the student's preexpulsion suspension. A telephone conference may be substituted for the meeting. Each parent shall be notified of his or her right to participate in the meeting at least 48 hours prior to the meeting. Unless a parent has requested a postponement, the meeting may be conducted without the parent's participation if the notice required by this subsection has been provided. The notice shall specify that the meeting may be held without the parents' participation, unless the parent requests a postponement for up to three additional days pursuant to this subsection. Each parent may request that the meeting be postponed for up to three (3) additional school days. If a postponement has been granted, the District may extend any suspension of a student for the period of postponement if the student continues to pose an immediate threat to the safety of himself, herself, or others, and the District notifies the parent that the suspension will be continued during the postponement. However, the suspension shall not be extended beyond 10 consecutive schooldays unless agreed to by the parent, or by a court order. If a parent who has received proper notice of the meeting refuses to consent to an extension beyond 10 consecutive schooldays and chooses not to participate, the meeting may be conducted without the parent's participation.

4. Assessment Available for IEP Review. In determining whether a student should be expelled, the IEP team shall base its decision on the results of a preexpulsion educational assessment, which shall include a review of:
 - a. Evaluation and diagnostic results.
 - b. Information supplied by the parents.
 - c. Observations of the student.
 - d. The student's IEP and placement.
 - e. The student's health records.
 - f. The student's school discipline records.

5. Results of the IEP Meeting. If the IEP team determines that the alleged misconduct was not a manifestation of, the student's disability, the student shall be subject to the applicable District disciplinary actions and procedures, but a free and appropriate public education must continue to be provided. Special education, Section 504 and disciplinary records must be transmitted to persons making final disciplinary actions.

If the IEP team determines that the student's misbehavior was a manifestation of the student's disability, the student may not be expelled.

6. Appeal of Findings. The parent of each student with previously identified exceptional needs has the right to a due process hearing conducted pursuant to section 1415 of Title 20 of the United States Code if the parent disagrees with the decision of the IEP team made pursuant to IV.C.5., or if the parent disagrees with the decision to rely upon information obtained or proposed to be obtained, pursuant to subdivision IV.C.4.

7. Timelines For Expulsion. Pursuant to subdivision (a) of section 48918, the statutory timelines prescribed for expulsion proceedings shall commence after the completion of the conditions set forth in IV.C.1.

8. Transportation. If an individual with previously identified exceptional needs 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.

9. Interim Alternative Educational Setting. Regardless of Manifestation, school officials may remove a student for 45 school days for the following:
 - a. carries or possess a weapon to or at school, on school premises, or at school functions
 - b. knowingly possesses or uses illegal drugs, sells or solicits the sale of controlled substances at school, on school premises, or at school functions

- c. inflicts serious bodily injury while at school, on school premises or at school functions. Seriously bodily injury includes a substantial risk of death or extreme physical pain or protracted, obvious disfigurement or protracted loss or impairment of function of bodily member, organ, or mental faculty.

10. Student not yet eligible for Special Education services. A student not yet eligible for special education services may receive special education protections if the school had knowledge before the conduct resulting in the disciplinary action that the child may have a disability, demonstrated by any one of the following:

- a. The parent expressed in writing a concern to teachers or school administrators that the student needs special education.
- b. The parent has requested a special education evaluation.
- c. A teacher or other personnel expressed specific concerns about a pattern of behavior directly to special education director or other supervisory personnel.

D. Notification of Law Enforcement Authorities. (Education Code 48902.)

1. The principal or designee shall, prior to the expulsion of any student, notify the appropriate law enforcement authorities of any acts of the student which may violate section 245 of the Penal Code (relating to assault with a deadly weapon or force likely to produce great bodily injury). This requirement applies only when notification was not made prior to the suspension of the student.
2. The principal or designee shall, within one school day after expulsion of any student, notify by telephone or other appropriate method the appropriate law enforcement authorities of any act of the student which may violate III.A.3. or III.A.4. (relating to controlled substances, alcohol, intoxicants, and look-alike substances). This requirement applies only when notification was not made within one school day after suspension of the student.
3. The principal or designee shall notify appropriate law enforcement authorities of any acts of a student that may involve the possession or sale of narcotics or of a controlled substance or a violation of Penal Code section 626.9 or 626.10 (relating to possession of weapons on campus), even if the student has not been suspended or expelled.
4. A principal or designee reporting a known or suspected act described in IV.D.1. or IV.D.2. is not civilly or criminally liable for the report unless it is proven that the report was false and that the person making the report knew that it was false or made the report with reckless disregard for the truth.
5. The willful failure to make any report required by this section is an infraction punishable by a fine of not more than \$500, to be paid by the principal or principal's designee required to make the report.

E. Procedure for Expulsion. (Education Code 48918.) [See IV.E.17. for special procedures for cases of sexual assault or battery.]

1. Extension of Suspension Pending Expulsion Hearing. In any case in which the Superintendent has determined to extend the suspension of a student who has been recommended for expulsion, the procedure in III.L.10. shall be followed.
2. Timelines for Hearing. The student shall be entitled to a hearing to determine whether he or she should be expelled. An expulsion hearing shall be held within 30 school days after the date the principal or the Superintendent determines that the student has committed any of the acts enumerated in III.A., unless the student requests, in writing, that the hearing be postponed. The student shall be entitled to one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the Governing Board.

If compliance by the Governing Board with the time requirements for the conducting of an expulsion hearing under this section is impracticable, the Superintendent may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five (5) schooldays. Reasons for the extension of the time for the hearing shall be included as part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

If the 30 school day period within which to hold an expulsion hearing extends into a summer recess of Governing Board meetings of more than two weeks, the days during the summer recess period shall not be counted as school days toward the 30 school day time limit. The school days not counted during a summer recess of the Governing Board shall not exceed 20 school days, and 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 school for the school year. (Education Code 48918(a).)

3. Written Notice of Hearing. Written notice of the hearing shall be forwarded to the student at least 10 calendar days prior to the date of the hearing. The notice shall include:
 - a. The date and place of the hearing.
 - b. A statement of the specific facts and charges upon which the proposed expulsion is based.
 - c. A copy of the disciplinary rules of the District that relate to the alleged violation.

- d. Notice of the parent's or student's obligation to notify a subsequent school district of the student's expulsion status, pursuant to subdivision (b) of section 48915.1. (See IV.K.)
 - e. Notice of the opportunity for the student or the student's parent to appear in person or employ and be represented by legal counsel or by a non-attorney 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 (Education Code § 48918(b)(5)(A)). Non-attorney 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 pupil or the pupil's parent or guardian to provide assistance at the hearing (Education Code § 48918(b)(5)(B)).
 - f. Notice of the right to inspect and obtain copies of all documents to be used at the hearing.
 - g. Notice of the opportunity to confront and question all witnesses who testify at the hearing.
 - h. Notice of the opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.
4. Student's Right to Waive Hearing. The student and the student's parent shall be afforded the opportunity, at their discretion, to waive any and all of their due process rights relative to an expulsion recommendation, including, but not limited to, the right to a hearing to determine whether the student committed the offense(s) with which s/he has been charged. If the student and/or the student's parent requests a waiver of any of their rights, the consequences of such a waiver shall be thoroughly explained to them by the District prior to entering into a waiver agreement.
 5. Hearing in Closed Session. The Governing Board shall conduct a hearing to consider the expulsion of a student in a session closed to the public, unless the student requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the Governing Board may meet in closed session for the purpose of deliberating and determining whether the student should be expelled.

If the Governing Board admits any other person to a closed deliberation session, the parent of the student, the student and the counsel of the student shall also be allowed to attend the closed deliberations.

6. Alternative to Board Hearing. In lieu of conducting an expulsion hearing itself, the Governing Board may contract with the County hearing officer, or with the California Office of Administrative Hearings, for a hearing officer to conduct the hearing. The Governing Board may also appoint an impartial administrative panel of three or more certificated persons, none of whom are members of the Governing Board or employed on the staff of the school in which the student is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

If the hearing officer or administrative panel admits any other person to a closed deliberation session, the parent of the student, the student, and the counsel of the student shall also be allowed to attend the closed deliberations.

7. Evidence at the Hearing.
- a. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
 - b. No evidence to expel shall be based solely upon hearsay evidence; however, the Governing Board or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identify of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Governing Board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness shall be made available to the student.
 - c. If the student, parent, or representative of the student fails to object at the hearing that these rules are not being properly followed, or that any other law or requirement of due process is not being followed, the objections shall be deemed waived.

8. Subpoena Power.

- a. Before the hearing has commenced, the Governing Board may issue subpoenas at the request of either the Superintendent or the student, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the Governing Board or the hearing officer or administrative panel may, upon request of either the County Superintendent of Schools or the Superintendent's designee or the student, issue subpoenas. All subpoenas shall be issued in accordance with sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with section 11525 of the Government Code.
- b. Any objection raised by the Superintendent or the student to the issuance of subpoenas may be considered by the Governing Board in closed session, or in open session, if so requested by the student before the meeting. Any decision by the Governing Board in response to an objection to the issuance of subpoenas may be appealed to the County Board of Education.
- c. If the Governing Board, hearing officer, or administrative panel determines, in accordance with the procedure set forth in IV.E.6., that a percipient witness would be subject to an 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 provided for in IV.E.7.
- d. Service of process shall be extended to all parts of the State and shall be served in accordance with section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

9. Record of the Hearing. A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

10. Recommendation by Panel or Hearing Officer.

- a. Within three (3) school days after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the student to the Governing Board.

- b. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the student immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the Superintendent after consultation with District personnel, including the student's teachers, and the student's parent. The decision not to recommend expulsion shall be final.
- c. If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Governing Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing.

11. Governing Board Decision.

- a. A decision of the Governing Board whether to expel a student shall be made within 10 schooldays after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel or if the Governing Board does not meet on a weekly basis, the Governing Board shall make its decision about a student's expulsion within 40 school days after the date of the student's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the Superintendent, unless the student requests in writing that the decision be postponed.
- b. The decision of the Governing Board to expel a student shall be based upon substantial evidence, relevant to the charges and showing that the student committed any of the acts enumerated in III.A., adduced at the expulsion hearing or hearings.
- c. If the Governing Board accepts the recommendation of a hearing officer or administrative panel calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the Governing Board may order.

12. Rehabilitation Plan. (Education Code 48916(b), 48916.5) The Governing Board shall recommend a plan of rehabilitation for the student at the time of the expulsion order, which may include, but not be limited to, periodic review of the student's progress and a requirement that the student attend and participate in the actual review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs. The Governing Board may require a student who is expelled for reasons relating to controlled substances (as defined in Health and Safety Code sections 11054 to 11058, inclusive), or alcohol, to enroll in a County-supported drug rehabilitation program prior to returning to school. No student shall be required to enroll in a drug rehabilitation program without parent/guardian consent.
13. Suspension of Expulsion. (Education Code 48917.)
 - a. Order of Probation. The Governing Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class, or program that is deemed appropriate for the rehabilitation of the student. The Governing Board shall apply the criteria for suspending the enforcement of an expulsion order equally to all students. The rehabilitation program to which the student is assigned may provide for the involvement of the student's parent in his or her child's education in ways that are specified in the rehabilitation program. A parent's refusal to participate in the rehabilitation program shall not be considered in the Governing Board's determination as to whether the student has satisfactorily completed the rehabilitation program. During the period of the suspension of the expulsion order, the student shall be deemed to be on probationary status.
 - b. Revocation of Probation. The Governing Board may revoke the suspension of an expulsion order under this section if the student commits any of the acts enumerated in section III.A. or violates any of the District's rules and regulations governing student conduct. When the Governing Board revokes the suspension of an expulsion order, the student may be expelled under the terms of the original expulsion order without an additional hearing before the Board. Specifically, the student may be expelled for the remainder of the semester in which the offense causing the revocation occurs, plus one semester.
 - c. Reinstatement After Successful Probation Period. Upon satisfactory completion of the rehabilitation assignment, the Governing Board shall reinstate the student in a school of the District and may also order that any or all records of the expulsion proceedings be expunged.

- d. Appeal Time Lines Not Affected. A decision of the Governing Board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education. Any appeal shall be filed within 30 days of the original vote of the Governing Board.
14. Final Action in Public Session. Whether an expulsion hearing is conducted by the Governing Board or before a hearing officer or administrative panel, final action to expel a student shall be taken only by the Governing Board in a public session.
15. Written Notice of Expulsion Decision. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the Superintendent to the student and shall be accompanied by:
 - a. Notice of the right to appeal the expulsion to the County Board of Education. (See IV.H.)
 - b. Notice of the education alternative placement to be provided to the student during the time of expulsion . (See IV.F.)
 - c. Notice of the parent or student's obligation under subdivision (b) of section 48915.1, upon the student's enrollment in a new school district, to inform that district of the expulsion. (See IV.K.)
 - d. A description of the procedure for requesting readmission. (See IV.G.)
16. Record of Expulsion. The Governing Board shall maintain a record of each expulsion including the cause therefore. Records of expulsions shall be a nonprivileged, disclosable public record. The expulsion order and the cause(s) therefore shall be recorded in the student's mandatory interim record and shall be forwarded to any school in which the student subsequently enrolls upon receipt of a request from the admitting school for the student's school records.
17. Special Procedures for Cases of Sexual Assault or Battery. (Education Code 48918, 48918.5.)
 - a. In a hearing in which a student is alleged to have committed or attempted to commit a sexual assault, or to have committed a sexual battery, as defined in III.A.14, a complaining witness shall be given five (5) days' notice prior to being called to testify, and shall be entitled to have up to two adult support persons present during his or her testimony. Prior to a complaining witness testifying, support person(s) shall be admonished that the hearing is confidential.

- b. A complaining witness shall have the right to have his or her testimony heard in a closed session if the hearing is open to the public, when testifying at a public meeting would threaten serious psychological harm to the complaining witness and 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 means of closed-circuit television.
- c. At the time the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to:
 - (1) receive five days' notice of his or her scheduled testimony at the hearing;
 - (2) have up to two adult support persons of his or her choosing present at the hearing at the time he or she testifies;
 - (3) have the hearing closed during the time he or she testifies.
- d. The expulsion hearing 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.
- e. The District shall provide a nonthreatening environment for a complaining witness in order to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. The District shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In 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 or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness' support persons to accompany him or her to the witness stand.

- f. Evidence of specific instances of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances exist requiring the evidence be heard. Before such a determination is made, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of such 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 the complaining witness is not admissible for any purpose.
- g. Complaining witnesses and accused students will be advised immediately after any allegation is made of conduct violating III.A.14. to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

F. Educational Program Requirements for Expelled Students. (Education Code 48915(d), (f); 48915.2; 48916.1.)

- 1. At the time an expulsion is ordered, the Governing Board shall ensure that an educational program is provided to the expelled student for the period of the expulsion.
- 2. In order to provide the educational program required by this subsection, the Governing Board shall refer the student to a program of study that meets all of the following conditions:
 - a. Is appropriately prepared to accommodate students who exhibit discipline problems.
 - b. Is not provided at a comprehensive high school.
 - c. Is not housed at the school site attended by the student at the time of suspension.

Notwithstanding this subsection, with respect to a student expelled for a violation of any of III.A.6. through III.A.15., pursuant to the procedure in IV.B.2., if the County Superintendent of Schools certifies that an alternative program of study is not available at a site away from a comprehensive high school, and that the only option for placement is at another comprehensive high school, the student may be referred to a program of study that is provided at a comprehensive high school.

- 3. Notwithstanding the above, a student expelled for any of the offenses listed in IV.A.1 or IV.A.2. shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of section 1981, or a juvenile court school, as described in section 48645.1, or a community day school pursuant to Article 3 (commencing with section 48660) of Chapter 4 of Part 27.

4. The District may offer the student who is subject to the expulsion order independent study in order to satisfy the requirement of IV.F.1. The parent and the student shall provide the written consent for placement in independent study. The District or the County Superintendent of Schools shall notify the expelled student of the option of classroom instruction pursuant to paragraph (7) of subdivision (c) of section 51747.
5. The program provided pursuant to this section is the only program required to be provided to expelled students as determined by the Governing Board.

G. Readmission After Expulsion. (Education Code 48916.)

1. Duration of Expulsion. An expulsion order shall remain in effect until the Governing Board orders the readmission of a student. At the time an expulsion of a student is ordered for an act other than those described in IV.A.1., the Governing Board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the student shall be reviewed for readmission to a school maintained by the District or to the school the student last attended. For a student who has been expelled pursuant to IV.A.1., the Governing Board shall set a date of one year from the date the expulsion occurred, when the student shall be reviewed for readmission to a school maintained by the District, except that the Governing Board may set an earlier date for review for readmission on a case-by-case basis.
2. Procedure for Readmission.
 - a. On or before the date established by the Governing Board when the student will be reviewed for readmission, the student shall submit written documentation in support of readmission to the Superintendent. The student should describe his/her compliance with the rehabilitation plan recommended at the time of the expulsion order. Failure to submit documentation-and/or to cooperate in the review for readmission may be deemed grounds for denial of readmission.
 - b. The Superintendent will review the written documentation in support of readmission, the accompanying information, and may request additional information as needed. The Superintendent also may schedule a conference with the student and the student's parent to review the written documentation in support of readmission.
 - c. The Superintendent will determine whether the student should be readmitted, and will give the student and/or the student's parent written notice of the decision. If the Superintendent readmits the student, the decision shall be final.

- d. If the Superintendent denies the student's readmission, the Superintendent shall inform the student, in writing, of the decision, the reasons therefore, and of the student's right to appeal the Superintendent's decision to the Governing Board. The Superintendent shall also inform the student that an appeal must be in writing and must be submitted to the District office within two weeks of receipt of the Superintendent's decision.
- e. The appeal will be heard at the next Board meeting following receipt of the appeal, unless the Board meeting is within seven (7) work days of receipt of the student's appeal. In such case, the appeal will be heard at the following Board meeting.
- f. The Board will meet with the student, his parent, and the Superintendent in closed session. The Board will review all written materials related to the denial of readmission. The student or the parent may explain why the student should be readmitted, and the Superintendent may explain why s/he denied readmission. The Governing Board shall readmit the student, unless the Board makes a finding that the student has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other students or employees of the District.
- g. The Board shall make a decision no later than the meeting following the meeting at which the appeal was heard. The Board shall notify the student of its decision in writing no later than five (5) work days following this meeting. The Board's decision regarding the request is final.
- h. If the Governing Board denies readmission, the Board shall make a determination either to continue the placement of the student in the alternative educational program initially selected for the student during the period of the expulsion order or to place the student in another program that may include, but need not be limited to, serving expelled students, including placement in a county community school.
- i. The Governing Board shall provide written notice to the expelled student and the student's parent describing the reasons for denying the student readmittance into the regular District program. The written notice shall also include the determination of the educational program for the expelled student pursuant to IV.G.2.h. The expelled student shall enroll in that educational program unless the parent of the student elects to enroll the student in another school district.

H. Appeal to the County Board of Education.

- 1. Time for Appeal. (Education Code 48919.) If a student is expelled from school, the student or the student's parent may, within 30 days following the decision of the Governing Board to expel, file an appeal to the County Board of Education which shall hold a hearing thereon and render its decision.

The period within which an appeal is to be filed shall be determined from the date the Governing Board votes to expel even if enforcement of the expulsion is suspended and the student is placed on probation. A student who fails to appeal the original action of the Board within the prescribed time may not subsequently appeal a decision of the Board to revoke probation and impose the original order of expulsion.

2. Required Records. (Education Code 48919, 48921.) The student shall submit a 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 the transcriptions, supporting documents, and records within five (5) schooldays following the student's request. The student shall immediately file suitable copies of these records with the County Board of Education.

It shall be the student's responsibility to submit a written transcription for review by the County Board of Education. The cost of the transcript shall be borne by the student except in either of the following situations:

- a. Where the student's parent certifies to the District that s/he cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.
 - b. In a case in which the County Board of Education reverses the decision of the Governing Board, the County Board shall require the Governing Board to reimburse the student for the cost of the transcription.
3. Time for Hearing and Decision. (Education Code 48919.) The County Board of Education shall hold the hearing within 20 school days following the filing of a formal request under this section and shall render a decision within three (3) school days of the hearing, unless the student requests a postponement.
 4. Grounds for Review. (Education Code 48922.) The review by the County Board of Education of the decision of the Governing Board shall be limited to the following questions:
 - a. Whether the Governing Board acted without or in excess of its jurisdiction. A proceeding "without or in excess of jurisdiction" includes, but is not limited to, a situation where an expulsion hearing is not commenced within the time periods prescribed by this regulation, a situation where an expulsion order is not based upon the acts enumerated in III.A., or a situation involving acts not related to school activity or attendance.
 - b. Whether there was a fair hearing before the Governing Board.

- c. Whether there was a prejudicial abuse of discretion in the hearing. The County Board of Education may not reverse the decision of the Governing Board to expel a student based on a finding of an abuse of discretion unless the County Board of Education also determines that the abuse of discretion was prejudicial. An abuse of discretion is established in any of the following situations:
 - i. If school officials have not met the procedural requirements of these regulations.
 - ii. If the decision to expel is not supported by the findings prescribed by section 48915.
 - iii. If the findings are not supported by the evidence.
 - d. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the Governing Board.
5. Scope of Review. (Education Code 48921.) The County Board of Education shall determine the appeal from the record of the hearing before the Governing Board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the Governing Board's proceedings may be heard by the County Board of Education unless a de novo proceeding is granted as provided in IV.H.6.a.ii.
6. Decision of the County Board. (Education Code 48923.) The decision of the County Board shall be limited as follows:
- a. Where the County Board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the Governing Board, it may do either of the following:
 - i. Remand the matter to the Governing Board for reconsideration and may in addition order the student reinstated pending such reconsideration.
 - ii. Grant a hearing de novo upon reasonable notice thereof to the student and to the Governing Board. The hearing shall be conducted in conformance with the rules and regulations adopted by the County Board under section 48919.
 - b. In all other cases, the County Board shall enter an order either affirming or reversing the decision of the Governing Board. In any case where a reversal is ordered, the County Board may also direct the Governing Board to expunge the records of the student and the records of the District of any references to the expulsion action and the expulsion will be deemed not to have occurred.

7. Notice of Decision. The student and the Governing Board shall be notified of the final order of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered.

I. Community Service Alternative. (Education Code 48900.6.) As an alternative to expulsion, the Governing Board, the Superintendent, the principal or designee may require the student to perform community service on school grounds during non-school hours. "Community service" may include, but is not limited to, work performed on school grounds in the areas of outdoor beautification, campus betterment, and teacher or peer assistance programs. The section does not apply if expulsion is required by the Education Code.

J. Graduating Students. A student who has been recommended to the Governing Board for expulsion may not participate in his/her graduation ceremony or graduation-related activities scheduled prior to the completion of the expulsion process, without the prior approval of the Superintendent. The Superintendent may deny the student's participation only upon first determining that the presence of the student at the ceremony or related activities would cause a danger to persons or property or be disruptive.

K. Notification of Subsequent School District. (Education Code 48915.1(b).) When a student is expelled from the District for an offense other than those listed in subdivision (a) of section 48915, the student's parent, or the student if emancipated or legally of age, shall inform any subsequent school district, upon enrollment, of the student's status with the District. If this information is not provided to the subsequent school district and the subsequent district later determines the student was expelled from this District, the lack of compliance with this section shall be recorded and discussed in the hearing required for enrollment, described in V.

V. ENROLLMENT OF STUDENT EXPELLED FROM ANOTHER DISTRICT.
(Education Code 48915.1 and 48915.2.)

A. Required Hearing.

1. If the Governing Board receives a request from: (1) an individual who is expelled from another school district for an act other than those described in subdivision (a) or (c) of section 48915, or (2) an individual who has been expelled from another school district for an act described in subdivision (a) or (c) of section 48915 after expiration of the term of expulsion, for enrollment in a District school, the Governing Board shall hold a hearing to determine whether the individual poses a continuing danger to other students or employees of the District.
2. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of students as described in IV.

3. The District may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request must respond with all deliberate speed but in no event later than five (5) working days from the date of receipt of the request.
- B. Options of the Board. The following options may be considered by the Governing Board when making its determination whether to enroll an individual who has been expelled from another school district:
1. Deny enrollment.
 2. Permit enrollment.
 3. Permit conditional enrollment in a regular school program or other educational program.

The Governing Board may decide to deny enrollment after a determination has been made that the individual poses a potential danger to either the students or employees of the District. In the case of an individual expelled from another school district for an act described in subdivision (a) or (c) of section 48915, the Governing Board may permit the individual to enroll in the District after the term of the expulsion only if it determines the student does not pose a danger to either the students or employees of the District and either: (1) he or she has established legal residence in the District pursuant to section 48200, or (2) he or she is enrolled in the District pursuant to an interdistrict attendance agreement pursuant to sections 46600 et seq.

- C. Required Enrollment. Notwithstanding any other provision of law, the Governing Board, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of section 48915 does not pose a danger to either the students or employees of the District, shall permit the individual to enroll in a school in the District during the term of expulsion, provided that s/he, subsequent to the expulsion, either (1) has established legal residence in the District pursuant to section 48200, or (2) has enrolled in the District pursuant to an interdistrict attendance agreement executed between the affected school districts pursuant to sections 46600 et seq.

VI. NOTIFICATION OF PARENT OR RELATIVE OF RELEASE OF STUDENT TO POLICE OFFICER; PROCEDURE FOR VICTIMS OF SUSPECTED CHILD ABUSE OR NEGLECT. (Education Code 48906.)

- A. Release of Minor to Peace Officer - Notification to Parent. When the principal or other school official releases a minor student to a peace officer and the peace officer removes the minor from the school premises, the school official shall take immediate steps to notify the parent or responsible relative of the minor regarding the release of the minor to the officer, and the place to which the minor is reportedly being taken.

B. Removal When Minor is Victim of Child Abuse or Neglect. When a school official releases a minor to the custody of a peace officer as a victim of suspected child abuse, as defined in Penal Code section 11165 or for neglect pursuant to Welfare and Institutions Code section 305, the school official shall not notify the parent. In such a case, the school official shall provide the peace officer with the address and telephone number of the minor's parent. The peace officer is then responsible for taking steps to notify the parent or responsible relative that the minor is in custody and the place where she or he is being held.

Legal Reference:

EDUCATION CODE

- 212.5.....Sexual harassment
- 32050.....Hazing
- 35146.....Closed sessions (re suspensions)
- 35291.....Rules (of governing board)
- 48660-48667Community Day School
- 48900-48927Suspension and expulsion
- 49073-49079Privacy of student records
- 56320.....Educational needs; requirements
- 56321.....Development or revision of individualized
education program
- 56329.....Independent educational assessment
- 56340-56347Individual education program teams
- 56505.....State hearing

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COTATI-ROHNERT PARK
 UNIFIED SCHOOL DISTRICT