

**SUSPENSION AND EXPULSION/DUE PROCESS**

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

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

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

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

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

**AUTHORITY TO EXPEL**

A student may be expelled only by the Board.

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds:

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058

5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12," the Superintendent or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following:

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

A vote to expel a student shall be taken in a public session.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying administrative regulation.

No student shall be expelled for disruption or willful defiance.

## **DUE PROCESS**

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

## **LEGAL REFERENCE**

### **EDUCATION CODE**

212.5	Sexual harassment
233	Hate violence
1981-1981.5	Enrollment of students in community school
17292.5	Program for expelled students
32261	Interagency School Safety Demonstration Act of 1985
35145	Open board meetings
35146	Closed sessions (regarding suspensions)
35291	Rules (for government and discipline of schools)
35291.5	Rules and procedures on school discipline
48645.5	Readmission; contact with juvenile justice system
48660-48666	Community day schools
48853.5	Foster youth
48900-48927	Suspension and expulsion
48950	Speech and other communication

48980	Parental notifications
49073-49079	Privacy of student records
52060-52077	Local control and accountability plan

**CIVIL CODE**

47	Privileged communication
48.8	Defamation liability

**CODE OF CIVIL PROCEDURE**

1985-1997	Subpoenas; means of production
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**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
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**PENAL CODE**

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

**WELFARE AND INSTITUTIONS CODE**

729.6                Counseling

**UNITED STATES CODE, TITLE 18**

921                 Definitions, firearm

**UNITED STATES CODE, TITLE 20**

1415(K)            Placement in alternative educational setting

7151                Gun-free schools

**UNITED STATES CODE, TITLE 42**

11432-11435      Education of homeless children and youths

**COURT DECISIONS**

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

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County

Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

**ATTORNEY GENERAL OPINIONS**

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

80 Ops.Cal.Atty.Gen. 85 (1997)

**MANAGEMENT RESOURCES:****CSBA PUBLICATIONS**

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

**WEB SITES**

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

California Attorney General's Office: <http://www.oag.ca.gov>

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free Schools:  
<http://www.ed.gov/about/offices/list/osdfs>