

WEST CONTRA COSTA USD

BP 5144.1 Students

Suspension and Expulsion/Due Process

- A. Generally. 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.** ~~has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students.~~ **The Board has developed 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.** When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction. (cf.5144 –Discipline) **Such other means of correction include, but are not limited to, conferences between school personnel and the student and his/her parents/guardians; use of study, guidance or other intervention teams to develop a plan to address the behavior in partnership with the student; and participation in a restorative justice program. Education Code 48900.5 also authorizes WCCUSD document in a student's records the alternative means of correction used to address the student's behavior.**

Except when a student's act violates Education Code 48900(a)-(e), or when his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

- B. Suspension. Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)
- C. Expulsion. Expulsion is an action taken by the Governing Board for severe or prolonged breaches of discipline by a student. Except for single acts of a grave nature, Expulsion is used only when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to him/herself or others. (Education Code 48915)
- D. Grounds for Suspension and Expulsion. The grounds for suspension and expulsion and the procedures for considering, recommending and/or implementing suspension and expulsion shall be specified in administrative regulation and comply with this state's Education Code. **Pursuant to Ed. Code 48900(s) a student may be subject to discipline only when the violation is related to a school activity or school attendance. A student may also be disciplined for violations committed away from school if it is related to a school activity or to school attendance. For example, Education Code 48900 defines bullying by means of an electronic act as including an act that originates off campus. Another example is the hostile school environment in which a victim may suffer sexual harassment that occurs off campus.**

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: (Education Code 48900(s))

- 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 (cf .5112.5 – Open/Closed 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.

(cf. 0410 – Nondiscrimination in District Programs and Activities)

Education Code 48900(k), as amended by AB 420 (ch.660 Statutes of 2014), prohibits a district from suspending students in grades K-3 for disruption or willful defiance.

Students shall not be suspended or expelled for truancy, tardiness, or absenteeism from assigned school activities.

Authority to Expel. A student may be expelled only by the Board of Education. 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: (Education Code 48915)

- 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. (cf. 5131.7- Weapons and Dangerous Instruments).**
- 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 USC921**

For all other violations 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 if either or both of the following: (Education Code 48915(b) and (e))

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

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. (Education Code 48917)

No student shall be expelled for disruption or willful defiance. (Ed.Code 48900).

- E. Exclusion from Extracurricular Activities. Suspended or expelled students shall be excluded from all school-related extracurricular activities during the period of suspension or expulsion. (cf. 6145 – Extracurricular and Curricular Activities)
- F. **Student Due Process.** The Governing Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with the procedures for notices and appeals as specified in administrative regulation and law. (Education Code 48911, 48915, 48915.5) (cf.5119 – Students Expelled from Other Districts), (cf.5144.2 – Suspension and Expulsion/Due Process (Individuals with Disabilities))
- G. Alternatives to Suspension/Expulsion.
 1. The Governing Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours and when they are off campus and may fall behind in the coursework. The Governing Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated from the regular classroom.
 2. The Superintendent or designee shall establish a supervised in-house suspension program, which meets the requirements of law for suspended students who pose no imminent danger or threat at school and for whom an expulsion action has not been initiated.
 3. Alternatives to off-campus suspension may be examined for a student. This may include a suspension program which involves progressive discipline

during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff.

H. 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. (Ed. Code 48911, 48915, 48915.5, 48918)

I. Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of referral made after each expulsion, and the disposition of the students after the expulsion period.

The report shall be disaggregated by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged student, English learners, foster youth, and students with disabilities. The report also shall include information about whether and how the district is meeting its goals for improving school climate as specified in its local plan.

Data on suspension and expulsion rates will be provided in a manner prescribed by the California Department of Education. When indicated by data analysis, policies, procedures and practices related to the development and implementation of Special Education Student's Individualized Educational Plans will be revised.

Data or information shall be provided to the California Department of Education that may be required by regulations.

J. Required Parental Attendance.

1. The Governing Board believes that parental involvement plays an important role in the resolution of classroom behavior problems. The Governing Board expects that teachers will communicate with parents/guardians when behavior problems arise.
2. Whenever a student is removed from a class because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in that class. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

3. The Governing Board encourages teachers, before requiring parental attendance, to make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent/guardian education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.
4. The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)
5. Parental attendance may be requested on the day the student returns to class following a suspension, or within one week thereafter. The Governing Board recognizes that parental compliance with this policy may be delayed, modified or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended. No penalties may be imposed on a pupil for failure of the pupil's parent or guardian to attend.
6. When a parent or guardian is asked to attend their child's class, parents should be advised that Labor Code 230.7 provides that no employer shall discharge or in any way discriminate against an employee who takes time off work to attend his/her child's class when requested pursuant to Education Code 48900.1, provided the employee gives the employer reasonable advance notice that he/she is requested to appear in school.
7. District regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements.

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

1981 Enrollment of students in community school

17292.5 Program for expelled students

32261 Interagency school Safety Demonstration Act of 1985

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48667 Community Day Schools

48900-48927 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

CIVIL CODE

47 Privileged communication

45.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

1104.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

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

PENAL CODE

Principal or a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors or stun guns

868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

729.6 Counseling

UNITED STATES CODE, TITLE 18

921 Definitions, firearm

UNITED STATES CODE, TITLE 20

7151 Gun free schools

COURT DECISIONS

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

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

Board of Education of Sacramento City Unified School District V. Sacramento County
Board of Education and Kenneth H., (2001) 85 Cal.App.4th 1321

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

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

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

ATTORNEY GENERAL OPINIONS

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

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

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

Management Resources:

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

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

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

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

Policy WEST CONTRA COSTA UNIFIED SCHOOL DISTRICT

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