

# School Discipline

## Introduction

If student is in special education or suspected of being eligible for special education services, please see Fact Sheet 8 titled *Special Education Discipline* since additional procedural safeguards may apply.

Suspensions and expulsions are two types of school discipline. Both are regulated by California Education Code §48900 and the following sections.

For both suspensions and expulsions, the school district must have grounds to suspend or recommend a student for expulsion. *Grounds* for suspension or expulsion must contain two elements: an act prohibited by the Ed Code and a connection to school. EC §48900(r)

**ACT:** EC §§ 48900, 48900.2 – .4 & .7 list *specific prohibited acts*. Students can be suspended or recommended for expulsion for many acts, but *cannot* be suspended or expelled for being tardy or absent from school. EC §48900(v)

### Connection to School

The act must be related to school activity. A student can be suspended or expelled for acts that occur while on school grounds, while going to or coming from school, during the lunch period, or during, going to or coming from a school sponsored activity. EC §48900(r)

Disabled students have different rights regarding school discipline. *If you are working with a student who receives or should receive special education, see the fact sheet on school discipline & special education.* EC §48915.5

### Suspensions

A suspension is a temporary removal from school.

### Suspension Procedures

Suspensions should be preceded by an informal conference. EC §48911(b)

At the conference, the student must be informed of the reason for the disciplinary action and given an opportunity to present his/her story and evidence in his/her defense. EC §48911(b). A student can be suspended without a conference only in an “emergency situation.” EC §48911(c)

If a student is suspended without a conference, both the parent and the student must be notified of the student’s right to a conference. The conference must be held

within 2 school days unless the student waives the right to attend. EC §48911(c)

At the time of suspension, the school must make a reasonable effort to contact the student’s parents by telephone or in person. In addition, the parent must be notified in writing of the suspension. EC §48911(d)

While the school can request that a parent attend a conference regarding the student’s behavior before the student returns to school, if the parent fails to attend, the student cannot be penalized for this failure, and the school cannot postpone the student’s return to school. EC §48911(f)

### Limits to Suspensions

In general, a student cannot be suspended for more than 5 consecutive school days, or 20 school days total. EC §§48911(a), 48903(a)

### EXCEPTIONS

If the student is recommended for expulsion, and the school holds a meeting with the student’s parents and determines that the student poses an ongoing danger or threat of disrupting the educational process, the student can be suspended while the expulsion is pending, even if this exceeds 5 cumulative school days, or 20 total school days that year. EC §48911(g)

If the student enrolls in or transfers to a new school, he/she can be suspended for up to 30 days that school year. EC §48903(a)

Suspension can only be used after a school tries other ways to discipline a student. Exception: If the student violated EC §48900(a), (b), (c), (d) or (e), or if the school finds that the student’s presence causes a danger to other students, property, or threatens the instructional process, the school can suspend the student for a first offense, without first using other disciplinary methods. EC §48900.5

### Expulsions

An expulsion prohibits a student from attending any school within the district for a year. The school can recommend a student for expulsion, but only the governing school board can actually issue an expulsion.

### Expulsion Procedures

A student recommended for expulsion has *due process rights*. They include:

- Before a student can be expelled, the district must conduct a *hearing*. The district governing board may conduct the hearing, or the district can appoint an administrative panel or hearing officer to conduct the hearings. EC §§48918(a), 48918(d)
- The hearing must be held within 30 school days after the school recommended the student for expulsion, unless the student requests that the hearing be postponed. EC §48918(a)
- The student must receive *written notice* of the hearing at least 10 calendar days before the hearing. The notice must include the date and place of the hearing and a statement of specific facts regarding the basis for the expulsion recommendation. EC §48918(b)
- The student has the right to bring a lawyer or other advocate to the hearing. EC §48918(b)(5)
- At the hearing, the student can bring His/her own witnesses and/or ask that the district subpoena witnesses. The student has the right to question the witnesses and *present evidence*.
- In general, the governing board cannot base a decision to expel a student solely on hearsay. EC §48918(f)



### Necessary Findings

In most cases, in order to expel a student, the school district must do the following:

- Honor the student’s due process rights by meeting all procedural and time requirements.
- Demonstrate that there are grounds for the expulsion. [Grounds include an act prohibited by EC and a connection to school; see above].
- Demonstrate that either other means of correction are not feasible or have failed to bring about proper conduct, or

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that 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. *EC §48915(b)*

### Zero Tolerance Offenses

In some cases, the secondary findings in *EC §48915(b)* are not required. In these situations, the governing board must expel a student if the district establishes that the student committed one of the following acts + connection to school. *EC §48915(c)*

- possessing, selling, or furnishing a firearm
- brandishing a knife
- selling a controlled substance
- committing or attempting to commit sexual assault
- possession of an explosive

### Suspended Expulsions

When the governing board has made the necessary findings to expel a student, the board can decide to suspend enforcement of the expulsion for a period of up to one year. The board can also assign the student to an educational program designed to rehabilitate the student. *EC § 48917(a)*. During this period, the student is on probationary status. *EC §48917(c)*

The board can revoke the suspension or the expulsion if the student commits any of acts prohibited by the EC, or if the student violates any district rules or regulations. *EC §48917(d)*

### Terms of Expulsion

#### Education Program while Suspended

The district must provide an educational program for the student while he/she is expelled. This must be set up at the time the board expels the student. *EC §48916.1*

#### Readmission Dates

For non-zero tolerance offenses, the expulsion can be no longer than the last day of the semester following the semester when the student was expelled.

The *readmission date* must be set at the time when the pupil is expelled. *EC §48916(a)*  
For zero tolerance offenses [listed previously], the term of expulsion will be one calendar year from the date of the expulsion. However, the governing board can decide to set an earlier readmission date on a case-by-case basis. *EC §48916(a)*

### Rehabilitation Plans

At the time of the expulsion, the governing board must recommend a plan of rehabilitation for the period of time while the student is expelled. This plan can include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, or community service. *EC §48916(b)*

### Readmission

At the end of the expulsion, the student can apply for readmission to the governing board. The board must readmit the student unless they find that either:

- the student has not completed her rehabilitation plan, or
- the student continues to pose a danger to campus safety, other students, or district employees. *EC §48916(c)*

### Appeals

The student has the right to appeal the board's decision. The student has 30 days to file an appeal with the county board of education. *EC §48919*. The decision of the county board is final. *EC §48924*

Grounds for appeal are limited to the following questions:

- Whether the governing board acted without or in excess of its jurisdiction;
- Whether there was a fair hearing before the governing board;
- Whether there was a prejudicial abuse of discretion at the hearing;
- Whether there is relevant and material evidence, which, in the exercise of reasonable diligence, could not have been produced or was improperly excluded at the hearing. *EC §48922*

*The California Foster Youth Education Task Force is a coalition of more than 35 organizations dedicated to improving educational outcomes for foster youth. For more information, please contact Erin Saberi, Casey Family Programs, at 916.503.2950 or esaberi@casey.org.*

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