

SUSPENSION AND EXPULSION/DUE PROCESS

The Board of Trustees has established policies and standards of behavior in order to promote learning and protect the safety and well-being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction. Suspended or expelled students shall be denied the privilege of participation in all school-related extracurricular activities during the period of suspension or expulsion.

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)

Except for single acts of a grave nature, expulsion shall be used when there is a history of misconduct, when other forms of discipline, including suspension, have failed to bring about proper conduct, or when the student's presence causes a continuing danger to self or others.

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

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to on-campus or off-campus suspension.

No student in grades K-8 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910. (Education Code 48900)

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

Administrative decisions regarding the suspension and expulsion of students shall be made free from prejudice or favor. The District will not tolerate unequal or unfair treatment of any students. The District will comply with all state and federal laws and regulations regarding non-discrimination and equitable treatment of students.

Student Due Process

The Superintendent or designee shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices and appeals as specified in administrative regulation and law. (Education Code 48911, 48915, 48915.5)

Supervised Suspension Classroom

The Board recognizes that students who are suspended from school often have no supervision or guidance during the school hours when they are off campus and may fall behind in the coursework. The Board believes that, in many cases, it would be better to manage the student's behavior by keeping the student at school and providing him/her with supervision that is separated

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

from the regular classroom.

The Superintendent or designee shall establish a supervised in-house suspension program which meets the requirements of law for students suspended for any of the reasons enumerated in

Education Code 48900 and 48900.2, who pose no imminent danger or threat at school, and for whom an expulsion action has not been initiated.

The Superintendent or designee shall examine alternatives to off-campus suspension and may establish a suspension program which involves progressive discipline during the school day on campus; use of conferences between staff, parents/guardians and students; detention; student study teams or other assessment-related teams; and/or referral to school support services staff. The use of such alternatives does not preclude off-campus suspensions.

Parental Involvement

The Board believes that parental involvement plays an important role in the resolution of campus and classroom behavior problems. The Board expects that teachers will communicate with parents/guardians when behavior problems arise.

Decision Not to Enforce Expulsion Order

On a case-by-case basis, the enforcement of an expulsion order may be suspended by the Board pursuant to the requirements of law.

*Legal Reference:**EDUCATION CODE**212.5 Sexual harassment**233 Hate violence**1981-1981.5 Enrollment of students in community school**8239.1 Prohibition against expulsion of preschool student**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*

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

49073-49079 *Privacy of student records*
52052 *Numerically significant student subgroups*
52060-52077 *Local control and accountability plan*
64000-64001 *Consolidated application*
47 *Privileged communication* 48.8 *Defamation liability* *CODE OF CIVIL PROCEDURE*
1985-1997 *Subpoenas; means of production*
GOVERNMENT CODE 11455.20 *Contempt*
54950-54963 *Ralph M. Brown Act*
HEALTH AND SAFETY CODE
11014.5 *Drug paraphernalia*
11053-11058 *Standards and schedules*
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*
7961 *Gun-free schools*

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

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

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 118

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

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:

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 Healthy Students:

<https://www2.ed.gov/about/offices/list/oese/osh>

Policy

adopted: April 14, 1997

revised: September 14, 1998

revised: September 15, 2000

revised: September 10, 2001

revised: June 30, 2003

revised: July 26, 2005

revised: October 17, 2005

revised: May 20, 2020

revised: September 23, 2020

CAPISTRANO UNIFIED SCHOOL DISTRICT

San Juan Capistrano, California