

SCHOOL DISCIPLINE: A GUIDE FOR STUDENTS AND PARENTS

Handbook on Suspension and Expulsion in California Public Schools

Introduction

The ACLU of Northern California has prepared this handbook to guide parents and students through the school suspension and expulsion processes. All section numbers below refer to the California Education Code, a copy of which may be found in most county law libraries. You may also access the Code online. (Most public libraries have Internet terminals that are available for public use.) To find a specific Code section go to <http://www.leginfo.ca.gov/calaw.html>. From that site, check the “Education Code” box; type in the section number you want as a search term; and then click the “Search” button. Because the law changes often, you should consult the Education Code for the most up-to-date version of the statutes that apply. If you are using a printed version of the Code, make sure you check the pamphlet, or “pocket part,” at the back of the book for any recent amendments.

If your student has been identified as having special educational needs (or you suspect that special education assessments would be appropriate), then you should also look at additional resources on how special education law affects school discipline. One such resource, *Special Education Rights and Responsibilities*, “Chapter 8: Discipline of Students with Disabilities,” has been prepared by Protection and Advocacy, Inc. (PAI), and Community Advocates for Special Education (CASE). You may access that guide, which was revised in February 2000, online at <http://www.pai-ca.org/pubs/504801.htm>. If you do not have Internet access, you can order a printed version for a small charge from PAI at 1-800-776-5746.

In reviewing this guide, please recognize that every situation is different. Since the correct application of the law varies depending on the specific facts of each case, you should

use this document for general reference only and should not consider any of the information provided to be formal legal advice for your particular case. Also note that your use of this guide does not establish an attorney-client relationship between you and the ACLU of Northern California.

PART I: SUSPENSIONS

What can a student be suspended for?

A school cannot suspend a student for just any reason. For example, a school cannot ordinarily suspend a student simply for being late to, or absent from, school (Section 48900(q)). A student must have committed one of the acts included in Sections 48900, 48900.2, 48900.3, 48900.4, or 48900.7 before s/he can be suspended. The school cannot add offenses of its own that are punishable by suspension or expulsion. When a student has been suspended, the school must send the student's parent or guardian a written notice stating that the student has been suspended. That notice usually states the reason for the suspension and identifies the section of the Education Code on which the school based the suspension.

Because the law in this area changes often, we recommend that you check the above sections of the Code if you believe that you or your student have been disciplined for a non-suspendable offense. If you are using a printed version of the Code, make sure you check the pamphlet, or "pocket part," at the back of the book for any recent amendments.

One of the suspendable offenses is “willfully defying the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties” (Section 48900(k)). This means that a school might suspend a student for violating school or district policies that are not specifically included in the state Education Code. However, a violation of school or district policies cannot provide a basis for suspension or expulsion unless the student’s conduct amounts to willful defiance. For a copy of those policies, you should contact your school or district office. In addition, because this is such a generally worded offense, you should ask the school to specify exactly what it is that you or your student did wrong.

If a student commits one of those acts, can s/he can always be suspended?

No. There are several limitations. First, the offense must have been “related to school activity or school attendance” (Section 48900(p)). This includes acts committed while on school grounds; while going to or coming from school; during lunch (whether on- or off-campus); or during or while going to or coming from a school-sponsored activity. Note that students can be suspended for acts that are related to any school activity or school attendance, even if the affected school is not the student’s own school or in the student’s own district. This would apply, for example, if students got into a fight at a football game held at a rival school.

Second, schools normally may not suspend students on their first offense; a school usually may suspend a student only if it has already tried other, less severe, disciplinary measures to try to get the student to obey school rules (Section 48900.5). However, if a student commits certain offenses¹ or the student’s “presence causes a danger to persons or property or

¹ Currently, these offenses involve one or more of the following: physical injury to another person; possession of a firearm, knife, explosive, or other dangerous object; unlawful use or possession, or being under the influence of, a controlled substance (including alcohol); unlawful sale of a controlled substance;

threatens to disrupt the instructional process,” then a school may suspend that student on the first offense. If the school claims that you or your student “threatens to disrupt the instructional process,” you should ask the school to explain in writing exactly why it believes that you or your student poses such a threat of disruption. If the school fails to give a convincing explanation, you may want to consider complaining to the school superintendent or the school board.

Are there any limits on how long a school suspension can last?

In general, schools cannot suspend students for more than five consecutive school days (Section 48911(a)). During the school year, a “school day” is any day on which the schools of the district are in session. During the summer, a “school day” is any weekday (Section 48925(c)).

Also, schools cannot suspend students for more than a total of twenty school days in any school year (Section 48903). This limit is raised to thirty school days, however, for students who transfer to a different school for purposes of “adjustment.”²

Usually, students who are suspended are not allowed to be on school grounds for the duration of the suspension. However, some schools may provide a “supervised suspension classroom.” Students assigned to these classrooms can then keep up with their school assignments and take tests that would be missed during the suspension. (Section 48911.1)

or robbery or extortion. You should consult Sections 48900(a) through (e) and Section 48900.5 for more details.

² This category generally applies to students who have been transferred from one school to another for reasons related to school discipline.

What does a school have to do before it can suspend a student?

Before a student can be suspended, the principal (or the principal's designee) or superintendent must usually have an informal conference with the student in order to tell the student the reason for his/her suspension. At that conference, the student must be given a chance to present his/her side of the story and offer evidence in his/her defense (Section 48911(b)).

However, if the principal or superintendent determines that an emergency situation exists, s/he does not have to hold a pre-suspension conference (Section 48911(c)). "Emergency situation" is defined as one that presents "a clear and present danger to the life, safety, or health of pupils or school personnel." If a student is suspended without a pre-suspension conference, then the school must tell both the student and his/her parents that the student has the right to a conference and may return to school for that conference. The conference must be held within two schooldays, unless the student waives that right. If the student cannot physically attend for any reason (for example, if the student is in the hospital or jail), then the conference must be held as soon as the student is able to attend.

How are parents notified of their student's suspension?

At the time of the suspension, a school employee must make a "reasonable effort" to contact the student's parent or guardian in person or by telephone. Usually, schools will try to reach parents by phone either at home or at work and leave a message if they cannot find either parent.

The school must also inform parents or guardians of the suspension in writing (Section 48911(d)). This written notice should include the reason for the suspension and the date and time when the student will be allowed to return to school.

Finally, the school may have a policy of bringing parents in to discuss the circumstances surrounding a student's suspension (Section 48914). Parents must attend such conferences when requested, but their failure to attend cannot be used against the student in any way. In other words, a school cannot keep a student on suspension because his/her parent failed to attend a conference with school officials (Section 48911(f)).

What can students or parents do if they disagree with the suspension?

Although state law does not require an appeal process for school suspensions, your school or district may have such a process in place. You should consult your school or district guidelines and handbooks for more information or contact the office of the school principal or district superintendent. You can get copies of these documents from either your school's or the school district's office. If your school or district does not have a formal appeal process, and you believe that you or your student should not have been suspended, or that the school did not follow the proper suspension procedures, then we encourage you to contact your school's principal or the district's superintendent to discuss the suspension. If that fails to resolve the situation, you may want to consider asking the school board to review the school's actions. You can get the name and address of the school board by calling the superintendent's office. Remember: the school cannot add infractions that are not in the code.

Are teachers authorized to suspend students?

A teacher may suspend a student from class for any of the reasons set out in Section 48900. However, the suspension can only be for the day of the suspension and for the following

school day (Section 48910). Moreover, the suspension is only from that teacher's class. If a student goes to more than one class per day (as is the case for most middle school and high school students), the student may go to his/her other classes.

When a teacher suspends a student, the student will be sent to the principal's office or to the office of a person designated by the principal, such as the assistant principal. As soon as possible, the teacher must ask the student's parent or guardian to attend a parent-teacher conference about the suspension. The teacher may also ask a school counselor, school psychologist, and/or a school administrator to attend. In addition, the student's parent or guardian also has the right to ask that a school administrator attend the conference.

PART II: EXPULSIONS

Can a principal expel a student from school?

No. The law only authorizes principals and superintendents to *recommend* the expulsion of a student to the school board. Only the school board has the power to expel a student. This guide describes the expulsion process in more detail below.

What can a student be expelled for?

Generally speaking, students can only be expelled for the same offenses for which they can be suspended (See Part I, "What can a student be suspended for?"). Section 48915 classifies expellable offenses into three categories: (1) offenses for which the principal or superintendent *may* (but not must) recommend expulsion and for which it is up to the school board to decide

whether or not to expel the student; (2) offenses for which the principal or superintendent *must* recommend expulsion but for which the school board is not required to expel the student; and (3) offenses for which the school board must expel the student once it determines that the student committed the offense. In all three cases, however, Section 48915 requires that the offense have been committed “at school or at a school activity off of school grounds” before it can become the basis for expulsion. You should note, however, that the school may argue that the broader language of Section 48900(p) permits expulsion so long as the act in question is “related to school activity or school attendance.” That includes conduct that occurs while going to or coming from either school or a school sponsored activity and during the school lunch period, even if the student is having lunch off campus.

When may a principal or superintendent recommend that a student be expelled?

Any student who commits an expellable offense may be recommended for expulsion. Students who commit any of the following offenses must be recommended for expulsion, **unless** the principal or superintendent finds that expulsion would be inappropriate due to the particular circumstances of the offense:

- Causing serious physical injury to another person, except in self-defense.
- Possessing a knife, explosive, or other dangerous object of no reasonable use to the student.
- Unlawful possession of a controlled substance (for example, illegal drugs).
- Robbery or extortion.
- Assault or battery of any school employee.

(Section 48915(a)).

Students who commit the following offenses must be recommended for expulsion:

- Possessing, selling, or otherwise furnishing a firearm.
- Brandishing a knife at another person.
- Unlawfully selling a controlled substance (for example, illegal drugs).
- Committing or attempting to commit a sexual assault or sexual battery.
- Possessing an explosive device. (Section 48915(c)).

In the case of these five offenses, the principal or superintendent has no choice in the matter, even though s/he may believe that expulsion would be inappropriate due to the particular circumstances of the offense. Once the principal or superintendent determines that a student has committed one of these offenses, s/he must, in all circumstances, immediately suspend the student and recommend expulsion.

When can a school board decide to expel a student who has committed an expellable offense?

For certain offenses, the school board must expel a student if it determines that the student has committed the offense. These offenses, which are sometimes referred to as “zero tolerance” or “mandatory expulsion offenses,” are currently listed in Section 48915(c). They are:

- Possessing, selling, or otherwise furnishing a firearm.
- Brandishing a knife at another person.
- Selling illegal drugs.
- Committing or attempting to commit a sexual assault or sexual battery.
- Possessing an explosive device.

If a school board finds that a student committed any of these offenses at school or at a school activity off school grounds, then it must expel the student. Even in this situation, however, the school board has the option of suspending the expulsion instead of expelling the student outright.

For all other expellable offenses, the school board gets to decide whether or not to expel the student. Before the school board may expel the student, however, it must first find that the student committed the offense at school or at a school activity off school grounds, **and** that either of the following statements is true:

- Other means of correction are not feasible or have repeatedly failed to bring about proper conduct; OR
- Due to the nature of the act, the student’s presence causes a continuing danger to the physical safety of the student or others.

(Sections 48915(b) and 48915(e)).

What happens if a school suspends a student while the school board considers that student’s possible expulsion?

If a student has been recommended for expulsion, then the time limits on suspensions discussed above do not apply. The superintendent can extend the student’s suspension until the school board decides whether to expel the student. This extension must be done in writing and can be granted only if the superintendent (or a person to whom the superintendent has designated this authority) decides that the student’s presence in school or at an alternative school placement “would cause a danger to persons or property or a threat of disrupting the instructional process” (Section 48911(g)). In addition, before the superintendent can make that determination, s/he

must first have a meeting in which the student and the student’s parents or guardians are invited to participate.

If the superintendent decides that suspension pending expulsion is appropriate, you should ask the superintendent to be specific in explaining, in writing, just why he/she believes that you or your student “would cause a danger to persons or property or a threat of disrupting the instructional process.” If you believe that the superintendent is wrong, you may want to consider bringing the matter to the attention of the school board. You can get the name and address of the school board by calling the superintendent’s office.

If you (or your student) have been suspended indefinitely pending an expulsion hearing, we recommend that you ask the school to make arrangements for you or your student to keep up with school assignments. Although the school is not technically required to allow such arrangements, you should argue that not doing so would unfairly punish suspended students whom the school board ultimately may not expel. If the school refuses, we suggest that you write a letter to the school board explaining the situation. You can get the name and address of the school board by calling the superintendent’s office.

What does a school board have to do before it can expel a student?

Each school board must have its own rules and regulations to govern student expulsions, so you should consult the rules in your district for more specific procedures. However, under state law, every school board must follow certain procedures before it can expel a student. You can find those procedures listed in Section 48918 of the Education Code. We describe them

below.³ The law requires additional procedures for special education students (Sections 48915.5 and 48915.6) and for students facing expulsion based on allegations of sexual assault or battery (Sections 48918(b)(5), 48918(c), 48918(h), and 48918.5).

Before a student can be expelled, the school board must hold an expulsion hearing no more than thirty schooldays⁴ after the date on which the principal or superintendent recommended expulsion. If the hearing is not held within that time period, any resulting expulsion may be invalid.⁵ However, the student may request that the hearing be postponed. The request for a postponement must be made in writing. The school board **must** grant one postponement of up to thirty **calendar** days if the student requests it. After that, it is up to the school board to grant or deny any additional postponements requested by the student in writing (Section 48918(a)).

The school district must send the student written notice of the expulsion hearing at least ten **calendar** days before the date of the hearing. This notice must include the following (Section 48918(b)):

- The date and place of the hearing.
- A statement of the specific reasons for the proposed expulsion.
- A copy of the district’s disciplinary rules that relate to the alleged violation.

³ Remember, however, that these rules, like all laws passed by the Legislature, are subject to change, so you should be sure to consult the most current version of Section 48918.

⁴ Remember that, during the school year, a “schoolday” is any day on which the schools of the district are in session. During the summer, a “schoolday” is any weekday (Section 48925(c)). This means that you should not count holidays, such as Veteran’s Day, Memorial Day, or spring and winter breaks, when counting “schooldays.”

⁵ In certain circumstances, the superintendent is allowed to extend the time limit for holding the hearing by 5 schooldays during the school year. It may be extended even longer during the summer if the school board does not meet on its school year schedule. However, unless the student has requested a postponement of the expulsion, the board must hold the hearing no less than 20 days before the beginning of the new school year (Section 48918(a)).

- Notice that the student and his/her parents are entitled to:
 - Appear in person at the hearing.
 - Be represented by an attorney or non-attorney advocate.⁶ A non-legal advocate is someone the student or his/her parents choose to provide assistance at the hearing.
 - Look over and get copies of all documents that will be used at the hearing.
 - Question all witnesses who testify at the hearing.
 - Question all other evidence presented at the hearing.
 - Present oral and written evidence, including witnesses, on the student’s behalf.
- Notice that, before enrolling in a new school district while any expulsion is in effect, students must tell the new school district about their expulsion.⁷

What YOU Should Do

Before the hearing, there are certain steps you can take to make your defense more effective. For example, as soon as possible, you should request copies of any school records about the student that you think would be helpful. Remember that you have the right to obtain copies of all documents the school plans to use at the expulsion hearing. Check with the superintendent’s office about getting copies of these documents. You should then read through all of these documents and note places where you have questions or where you think that the documents have mistakes or contain information that is wrong or incomplete. You should then

⁶ You are not required to be represented by an attorney or other advocate, but we strongly recommend doing so because expulsions are very serious and expulsion hearings can be complicated. If you need assistance in finding an attorney, you should contact the Bar Association Lawyer Referral Service in your area or, if you qualify based on your income, your local Legal Aid office.

⁷ Students who have been expelled are not always entitled to enroll in a different district. It depends both on the offense for which the student was expelled and on whether the new district is willing to take the student. This is discussed in greater detail under the heading “Is an expelled student entitled to any form of education during the period of the expulsion?”

plan to present your own evidence (either through other documents or by calling witnesses) showing why the school district's documents are wrong.

In addition, the student's parent (or the student if s/he is 18) has the right under Education Code Section 49069 to look at and obtain copies of most records that the school keeps about the student. You should check with the superintendent's office to find out where these records are kept and to find out what you need to do to look at and get copies of these records.

After you have looked at the documents and records, you should then think about what people you want to call as witnesses. In addition to including people who may have information about what happened in connection with the charges against the student, you may also want to think about calling character witnesses. A character witness could be a friend, teacher, coach, religious adviser or club leader who can vouch for your personal integrity. You should make a list of the questions you want to ask both your witnesses and any witnesses that the school plans to call. If the person you plan to call as a witness is willing to talk to you, you should think about meeting with that person before the hearing to find out what they have to say and to let them know what questions you need them to answer. In addition, you should be sure to tell your witnesses when and where the hearing is going to be. It's a good idea to do this as soon as possible, so that people can avoid scheduling conflicts.

You should also remember that students have the right to subpoena witnesses. Through the subpoena process, a student facing expulsion can force people to come to the expulsion hearing to testify on the student's behalf (Section 48918(i)). The student must ask the school board or the hearing officer⁸ to issue the subpoena.

⁸ Sometimes the expulsion hearing is conducted by a hearing officer or an administrative panel appointed by the board. This process is discussed in the section of this guide labeled: "What does it mean if an expulsion hearing is conducted by a hearing officer or administrative panel?"

School boards usually hold expulsion hearings during closed sessions, meaning that they are closed to the public. However, students have the right to request that the board hold the hearing as part of its public meeting. The student must make the request in writing at least five calendar days before the date of the hearing (Section 48918(c)). At the end of the hearing, the school board will usually meet in a closed session to determine whether or not to expel the student, even if the hearing itself was held at a public meeting (Section 48918(c)). The board must, however, officially announce the expulsion at a public meeting (Section 48918(j)).

The district is required to make a record of the expulsion hearing. This may be done in any manner that the district chooses, such as tape recording the hearing, so long as it is possible to make a reasonably accurate and complete written transcription of the hearing from the recording (Section 48918(g)).

Expulsion hearings are not courtroom trials; thus the rules of evidence are not as strict as they are in court. However, expulsion hearings are serious and the evidence presented must be the kind of information that we would expect reasonable people to rely on in making important decisions (Section 48918(h)). In addition, except in unusual circumstances, a decision to expel a student may not be based solely on hearsay evidence (that is, evidence where the person who says s/he saw or heard something does not testify in person, and therefore cannot be cross-examined by the student's representative) (Section 48918(f)).

Generally, the school board must make its decision within ten **schooldays** after the expulsion hearing. If the board does not meet weekly, the board must still make its decision within forty **schooldays** of the principal's or superintendent's recommendation for expulsion. However, the student may request in writing that the decision be postponed. In addition, there are different rules for hearings conducted by a hearing officer or an administrative panel (see

below, “What does it mean if an expulsion hearing is conducted by a hearing officer or administrative panel?”).

What happens if the school board decides to expel a student?

If the school board votes to expel a student, then the superintendent must send written notice to the student or the student’s parent or guardian. This notice must include the following:

- The fact that the student has the right to appeal the expulsion to the county board of education (see below, “What can students or parents do if they disagree with the expulsion?”).
- Information about the alternative educational placement to be provided to the student during the time of expulsion (see below, “Is an expelled student entitled to any form of education during the period of the expulsion?”).
- Notice that Section 48915.1(b) requires students eligible to enroll in a new school district during the period of their expulsion to inform the new school district of their expulsion from their old district.

At the time that the expulsion order is entered, the expelled student and student’s parents or guardians must also be able to review the district’s readmission procedures (Section 48916(c)). See below, “When can an expelled student return to school?”, for more details on readmission to school following an expulsion.

Finally, at the time of expulsion, the school board must recommend a rehabilitation plan for the student. This plan might include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs. It can also include periodic reviews and an assessment

at the time of review for readmission (Section 48916(b)). It is important to ask for a copy of the rehabilitation plan if the district fails to provide it. You can get a copy from the school board.

What does it mean for an expulsion hearing to be conducted by a hearing officer or an administrative panel?

Section 48918(d) allows a school board to have a county or state hearing officer conduct an expulsion hearing. The board may also appoint an impartial administrative panel consisting of three or more teachers or administrators. No member of the administrative panel may be a member of the school board or be employed at the school that the student attends.

In general, the same hearing and notice procedures described above apply to expulsion proceedings held before a hearing officer or an administrative panel. For example, the same notice requirements apply whether the hearing is conducted by the board itself, a hearing officer, or an administrative panel. In the case of a hearing officer or administrative panel, however, the following additional procedures must be followed:

- Within three **schooldays** after the hearing, the hearing officer or administrative panel must determine whether to recommend the student's expulsion to the school board.
- If the hearing officer or administrative panel decides that the student should **not** be expelled, then the expulsion proceedings are over and the student must be immediately allowed to return to school. The hearing officer's or administrative panel's decision not to recommend expulsion is final. However, instead of allowing the student to return to his or her school, the superintendent (or a person designated by the superintendent) may decide to place the student in some other school or program, including a rehabilitation

program. Before changing the student's school, however, the student's teachers and parents or guardians must be consulted (Section 48918(e)).

- If the hearing officer or administrative panel does recommend expulsion, then it must prepare findings of fact, based on the evidence presented at the hearing, and submit those findings to the school board. The school board then reviews the findings and decides whether or not to accept the recommendation to expel the student. The school board must make this final decision within forty schooldays of the original recommendation to expel by the principal or superintendent (Section 48918(a)). It can, however, conduct additional hearings before making its decision (Section 48918(f)).

What can students or parents do if they disagree with the expulsion?

If the school board decides to expel a student, then the student or the student's parent or guardian can file an appeal to the county board of education. **This must be done within thirty calendar days of the date on which the school board voted to expel the student.** This time limit applies even if the school board decides to suspend enforcement of the expulsion (Section 48919).⁹ You should get a receipt showing the date on which you filed the appeal.

The student is responsible for sending the county board a copy of the transcript of the hearing (a written, word-for-word record of what was said) and any supporting documents from the expulsion hearing (Sections 48919 and 48921). The transcript and other documents can be obtained by filing a written request with the school district. The school district must provide the transcript and documents to the student within ten schooldays of the student's request (Section 48919). **You must submit your written request to the district for a transcript and for any**

supporting documents on the same day that you file your appeal. As soon as you receive the transcript and other documents, you must immediately file them with the county board of education. You should get a receipt showing that you have done so.

The county board must hold a hearing within twenty schooldays of the date on which you file the appeal (Section 48919). The hearing must be held in a closed session unless the student requests that the hearing be held at a public meeting. The student must submit this request, in writing, at least five days before the hearing (section 48920). Within three school days of the hearing, the county board must make its decision, by either personal delivery or certified mail (Section 48919). The decision of the county board is final (Section 48924).

During the hearing, the county board can only consider the following issues (Section 48922):

- Whether the school board “acted without or in excess of its jurisdiction” (For example, in cases where the student was expelled for an offense for which expulsion is not authorized by the Education Code, or where the alleged offense did not involve acts related to school activity or attendance, the board has acted without or in excess of its jurisdiction. Failure to hold the expulsion hearing in a timely manner may also make an expulsion decision invalid).
- “Whether there was a fair hearing” before the school board.
- “Whether there was prejudicial abuse of discretion” regarding the hearing (For example, if the evidence does not support a finding in favor of expulsion or the board did not comply with procedural requirements such as giving proper notice, or making its decision in accordance with the time limits set out by the Education Code, etc.).

⁹ To find out about suspended expulsions, see “What is a suspended expulsion?”

- “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 school board” (For example, if the school board did not allow the student to present witnesses supporting the student’s version of what happened, or if new facts, which the student could not have been expected to discover earlier, come to light between the time of the original expulsion hearing and the appeal).

If the county board finds that relevant and material evidence has been excluded, then it can order the school board to reconsider the expulsion. In this situation, it also can (but is not required to) order the district to reinstate the student while the district reconsiders its expulsion order. Alternatively, the county board can grant a new expulsion hearing, provided that it gives reasonable notice to both the student and the school board. In that case, the county board would hear the evidence for and against expulsion and then decide whether to expel the student, rather than sending the matter back to the district school board for further review (Section 48923(a)).

In all other cases, the county board must enter an order that either affirms or reverses the district school board’s decision to expel. If the county board reverses the expulsion, the county board may also (but is not required to) order the district school board to remove the expulsion from the records of the student and the district and the expulsion will be considered not to have occurred (Section 48923(c)).

Some of the larger county boards (defined in terms of the number of students who attend the county’s schools) may choose to have a hearing officer or an impartial administrative panel conduct expulsion appeals hearings (Section 48919.5). None of the members of the administrative panel may be members of the school board or employees of the district from

which the student was expelled. In addition, neither the hearing officer nor members of the administrative panel may have been involved in the district-level expulsion hearing.

If the county appeal is to be heard by an administrative panel or a hearing officer, all of the above rules still apply, except for the following changes in the timeline requirements:

- The hearing officer or administrative panel must prepare a recommended decision, including any findings or conclusions required for that decision, and send that recommended decision to the county board within three schooldays of hearing the appeal (Section 48919.5(b)).
- The county board must then review the recommendation of the hearing officer or administrative panel and make a final order within ten schooldays of receiving the recommended decision (Section 48919.5(d)).

Final steps

If the county board upholds the expulsion, that is the end of the administrative process. If you disagree with the county board decision, it is possible to challenge that decision by bringing a court case. However, if you think you might want to go to court, you should consult with an attorney immediately to be sure that you do not miss any deadlines.

What is a “suspended expulsion”?

Rather than expelling a student outright, a school board can choose to suspend the enforcement of a student’s expulsion for up to one calendar year (Section 48917). During that time, the student is considered to be on probationary status and may be assigned to a rehabilitation program as a condition of the suspended expulsion. The school board can revoke the suspension of the expulsion if the student violates any of the district’s rules and regulations

governing student conduct. If that happens, the student may be expelled under the terms of the original expulsion order. In other words, **there will be no new expulsion hearing.**

Remember: A suspension of the expulsion does not affect the time limits for appealing the original expulsion order (Sections 48917(f) and 48919). Thus, even if the school board votes to suspend enforcement of the expulsion, if the student wishes to appeal the school board's decision, s/he must still file an appeal to the county board within thirty calendar days of the date on which the school board voted to expel. **It is too late to appeal the expulsion order at the time probationary status is revoked.** Thus, if you disagree with the school board's decision or believe that the board violated any of the procedural requirements for holding an expulsion hearing, you should file an appeal with the county board regardless of whether the school board votes to suspend the expulsion.

The Right to an Education

Is an expelled student entitled to any form of education during the period of the expulsion?

Yes. Section 48916.1 requires a school board to ensure that an educational program is provided to expelled students during the periods of their expulsion. Generally speaking, the educational program must be capable of accommodating students who exhibit discipline problems; the program may not be physically located at a regular middle, junior, or senior high school, or at any elementary school (unless the program is at a community day school (see Section 48915.01); and the program cannot be housed at the school site attended by the student at the time of the expulsion (Section 48915(d)). However, for students expelled for some

offenses,¹⁰ if necessary, the educational program may be located at a regular middle, junior, or senior high school, or at an elementary school so long as it is not housed at the school site attended by the student at the time of expulsion (Section 48916.1(c)).

When can an expelled student return to school?

At the time of expulsion, the school board must set a date for considering whether to readmit the student to the school district. Generally, this date must be no later than the last day of the semester following the semester in which the expulsion occurred (Section 48916(a)). In other words, an expulsion order is only valid for up to two semesters. For students who have been expelled for a mandatory expulsion offense,¹¹ the timeline is slightly different. The review for readmission of such students is normally set at one year from the date the expulsion occurred; however, the school board may set an earlier (but not a later) date for the review on a case-by-case basis (Section 48916(a)). In addition, the school board must also adopt rules and regulations for considering requests by the student that s/he be readmitted to the district. (Section 48916(c)).

The school board must readmit the student following the review unless it determines that the student has not met the conditions of the rehabilitation plan (which was recommended at the time of expulsion) or continues to pose a danger to campus safety or to other students or employees of the school district (Section 48916(c)). Students who were expelled for reasons

¹⁰ These are the offenses listed in Section 48915 (b) and (e).

¹¹ Currently there are five mandatory expulsion offenses. These are listed in an earlier section of this Guide, “When can a governing board decide to expel a student who has committed an expellable offense?”

relating to controlled substances or alcohol may be required, if their parents consent, to enroll in a county-supported drug rehabilitation program before returning to school (Section 48916.5).

If the school board denies the student's readmission to the school district, then it must do one of two things: It may decide to continue the placement of the student in the alternative educational program the student has been attending during the period of the expulsion, or it may place the student in another program such as a county community school (Section 48916(d)). In either case, the school board must give written notice to the student and the student's parent or guardian explaining the reasons for denying readmission to the regular school district program and the reasons for the recommended alternative placement (Section 48916(e)).

Under the law, the student must enroll in the recommended alternative placement unless the student's parent or guardian chooses to enroll the student in another school district (Section 48916(e)).¹² That is, there is no formal appeals process for denials of readmission to a school district following an expulsion. However, if you believe that you or your student should be allowed back into school, then you might want to contact the school's principal or the district's superintendent to discuss the matter further.

Can expelled students enroll in other school districts during the period of expulsion?

Except as discussed in the section "Is an expelled student entitled to any form of education during the period of the expulsion?", students expelled for offenses listed in either

¹² The rules governing enrollment in another school district are discussed in the next section.

Section 48915(a) or (c) ¹³ **may not** enroll in any other school or school district during the period of expulsion. The only exceptions to this rule are county community schools, juvenile court schools, and community day schools (Section 48915.2(a)).

Students expelled for offenses other than those covered by either Section 48915(a) or (c) may submit a request for enrollment to the school board of another school district. In order to do so, the student must have established legal residence in the new school district. Alternatively, a student not residing in a particular district may be permitted to enroll in that district pursuant to any inter-district agreements that exist between the affected school districts (Section 48915.1(e)).

In submitting the request for enrollment, the student or the student's parent or guardian must inform the school district that the student has been expelled from another district. (Section 48915.1(b)). Upon receiving the request, the school board of the new district must hold a hearing to determine whether the student poses a continuing danger to either the students or employees of the school district (Section 48915.1(a)). That hearing is governed by the same procedural requirements that govern expulsion hearings.¹⁴ If the student does not pose a danger, then the school board may not deny the request and must allow the student to enroll in the district, even during the period of expulsion (Section 48915.1(e)). The board may choose, however, to impose conditions on the student's enrollment (Section 48915.1(d)).

May students expelled for offenses covered by Section 48915(a) or 48915(c) enroll in other school districts after the period of expulsion?

¹³ These offenses are the ones for which a principal or superintendent must recommend expulsion. See the above section, "When can a principal or superintendent recommend that a student be expelled?", for a list of these offenses.

¹⁴ Those requirements are described in an earlier section of this Guide: "What does a school board have to do before it can expel a student?"

As noted above, students expelled for offenses covered by either Section 48915(a) or (c) may not enroll in any other school or school district during the period of expulsion, other than a county community school, juvenile court school, or a community day school (Section 48915.2(a)). Once the period of expulsion has ended, however, the student may apply for enrollment in another district if the student has established legal residence in the new school district. In addition, the student may also be permitted to enroll in another district pursuant to any inter-district agreements that exist between the affected school districts (Section 48915.2(b)).

Before the student can be admitted to the new district, the school board for that district will hold a hearing to determine whether the student poses a danger to the students or employees of the district (Section 48915.2(b)). That hearing is governed by the same procedural requirements that govern expulsion hearings.¹⁵ If the school board finds that the student does not pose a danger, it may permit the student to enroll. However, the statute does not address whether the new district **must** allow the student to enroll once it determines that the student is not a danger to the district's students or employees.

Can students have their expulsions expunged from their records once the expulsion period is over?

Many districts will allow students to ask to have an expulsion removed from their records once they have successfully completed their rehabilitation program. You should be sure to check with your school district to see if this possible.

¹⁵ Those requirements are described in an earlier section of this Guide: “What does a school board have to do before it can expel a student?”

BRIEF EXPULSION CHRONOLOGY

DAY 1	Student commits expellable offense. Principal or superintendent recommends expulsion to school board.
At least 10 calendar days prior to expulsion hearing	Student receives written notice of expulsion hearing.
Within 30 schooldays after recommendation for expulsion	School board, hearing officer, or administrative panel conducts expulsion hearing .
Within 3 schooldays after expulsion hearing (if conducted by hearing officer or administrative panel)	Hearing officer or administrative panel recommends to school board whether or not to expel.
Within 10 schooldays after expulsion hearing and/or within 40 schooldays of recommendation for expulsion	School board makes decision to expel , not to expel, or to suspend expulsion for up to one year. Superintendent sends written notice of expulsion or suspended expulsion, with rehabilitation plan, to student.
Within 30 calendar days of school board's vote to expel	Student files written appeal to county board of education.
Within 20 schooldays of filing appeal	County board of education (or hearing officer or administrative panel) conducts appeals hearing .
Within 3 schooldays of appeals hearing County board or within 10 school days of hearing by hearing officer or administrative panel.	County board decides whether to expel and sends written notice of decision to student by either personal delivery or certified mail. The decision of the county board is final .

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