

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
FRESNO COUNTY BOARD OF EDUCATION**Students****SUSPENSION AND EXPULSION/DUE PROCESS**

The County Superintendent and County Board desire to provide students of County Superintendent/County Board schools 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 County Superintendent or designee shall develop rules and regulations setting the standards of behavior expected of County Superintendent/County Board students and the disciplinary processes and procedures for addressing violations of those standards, including suspension, expulsion and return of students to their district(s) of residence.

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 applicable administrative regulation(s).

County Superintendent staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with County Superintendent/County Board nondiscrimination policies.

Appropriate Use of Suspension Authority

Except as otherwise allowed under the law, suspension shall be used only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5, 48900.6)

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

Authority to Expel

Except for single acts of a grave nature or offenses for which suspension or expulsion is required by law, suspension or expulsion shall be used only when means of correction have failed to bring about proper conduct or the student's presence causes a continuing danger to the student 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 administrative regulation.

Due Process

Students shall be afforded their due process rights under the law. The County Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5)

**FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
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The County Superintendent or designee shall cooperate with the student's district of residence to address student behavior that involves expulsion violations committed while student was attending a County Superintendent/County Board school. Once the County Superintendent or designee refers a student back to the student's district of residence for expulsion violations, it is the district of residence's responsibility to ensure the student is afforded due process rights through the district of residence's expulsion process.

Maintenance and Monitoring of Outcome Data

At the end of each school year, the County Superintendent or designee shall complete a report regarding the use of suspension and/or expulsion in County Superintendent/County Board schools. The report shall include, but is not limited to, data and information which is required by law. Based on the data, the County Superintendent or designee shall address any identified disparities in the imposition of student discipline and shall determine whether and how the County Superintendent and County Board are meeting the goals for improving school climate as specified in the applicable local control and accountability plan.

Adopted: 04/16/1998

Amended: 03/21/2013, 10/15/2020

LEGAL REFERENCEEducation 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

49073-49079 Privacy of student records

52052 Numerically significant student subgroups

52060-52077 Local control and accountability plan

64000-64001 Consolidated application

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
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Civil Code

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

Labor Code

230.7 Employee time off to appear in school on behalf of a child

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

FRESNO COUNTY SUPERINTENDENT OF SCHOOLS
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United States Code, Title 18

921 Definitions, firearm

United States Code, Title 20

1415(K) Placement in alternative educational setting

7961 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

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

Websites

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:

<http://www2.ed.gov/about/offices/list/oese/oshs>