

SUSPENSION AND EXPULSION/DUE PROCESS

The County Board desires to provide 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. The County Board shall adopt rules and regulations setting the standards of behavior expected of LACOE students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

(cf. 5131 - Conduct)

(cf. 5131.1 - Bus Conduct)

(cf. 5131.2 - Bullying)

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 accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when the student's behavior is related to a school activity or school attendance occurring within any LACOE 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, while going to, or coming from a school-sponsored activity

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

(cf. 0410 - Nondiscrimination in LACOE Programs and Activities)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Appropriate Use of Suspension Authority

Except when a student's act violates Education Code 48900(a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion: Grades K-12" of the accompanying administrative regulation, or when the student's 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)

(cf. 1020 - Youth Services)

(cf. 5138 - Conflict Resolution/Peer Mediation)

(cf. 5144 - Discipline)

(cf. 6142.4 - Service Learning/Community Service Classes)

(cf. 6164.2 - Guidance/Counseling Services)

(cf. 6164.5 - Student Success Teams)

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 may be suspended for disruption or willful defiance, except by a teacher from the student's class for a period suspension pursuant to Education Code 48910. (Education Code 48900)

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

(cf. 5113 - Absences and Excuses)

(cf. 5113.1 - Chronic Absence and Truancy)

On-Campus Suspension

To ensure the proper supervision and ongoing learning of students who are suspended for any of the reasons enumerated in Education Code 48900 and 48900.2, but who pose no imminent danger or threat to anyone at school and for whom expulsion proceedings have not been initiated, the County Superintendent or designee shall establish a supervised suspension classroom program which meets the requirements of law.

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

Authority to Expel

A student may be expelled by an administrative panel.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The County Superintendent, principal, or designee shall recommend expulsion and convene an administrative panel. This panel will act impartially on behalf of the County Superintendent and be comprised of three certificated members who are not directly connected to the incident in question nor assigned to the recommending school.

The administrative panel 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 USC 921

For all other violations listed in the accompanying administrative regulation, the County Superintendent, designee, or principal shall have the discretion to recommend expulsion of a student. If expulsion is recommended, an administrative panel shall order the student expelled only if it makes a finding of 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.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The administrative panel 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. (Education Code 48900)

Due Process

LACOE shall ensure the fair and equitable treatment of students facing suspension and/or expulsion by affording them due process rights under the law. LACOE shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. The student shall be given a notice of the student's right to appeal to the County Board. (Education Code 48911, 48915, 48915.5, 48918)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

Appeal

The student or parent/guardian is entitled to file an appeal of the administrative panel decision with the County Board. The appeal must be filed within 30 days of the administrative panel's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from LACOE simultaneously with the filing of the notice of appeal with the County Board, LACOE shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

The County Board will hear the appeal of the administrative panel directly, and no additional administrative hearing panel will be used.

The County Board shall utilize the standard of review set forth in Education Code 48922 and BP 5144.3 (Scope of Review).

The decision of the County Board shall be final and binding, as set forth in Education Code 48924 and BP 5144.3 (Final Order of the County Board).

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Maintenance and Monitoring of Outcome Data

The County Superintendent or designee shall annually present to the County Board a report of the outcome data which LACOE 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 administrative panel, 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 students, English learners, foster youth, and students with disabilities. The report also shall include information about whether and how LACOE is meeting its goals for improving school climate as specified in its local control and accountability plan.

(cf. 0460 - Local Control and Accountability Plan)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference:

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981-1981.5 Enrollment of students in community school

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

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 Discharge or discrimination against employee for taking 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

Legal Reference continued: (see next page)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Legal Reference: (continued)

PENAL CODE (continued)

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

11432-11435 *Education of homeless children and youths*

7151 *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

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. 348 (1997)*

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

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

CSBA PUBLICATIONS

Safe Schools: Strategies for Governing Boards to Ensure Student Success, 2011

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.caag.state.ca.us>

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 Drug-Free Schools:

<http://www.ed.gov/about/offices/list/osdfs/index.html>

SUSPENSION AND EXPULSION/DUE PROCESS

Definitions

Suspension means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the County Board for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910

Expulsion means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

For LACOE schools serving incarcerated youth, LACOE administration is expected to collaborate with Department of Probation staff to determine an appropriate location to house expelled students.

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and education rights holders are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

Grounds for Suspension and Expulsion: Grades K-12

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows and in the sections "Additional Grounds for Suspension and Expulsion: Grades 4-12" and "Additional Grounds for Suspension and Expulsion: Grades 9-12" below:

(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

(cf. 5131.6 - Alcohol and Other Drugs)

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))

5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))

6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))

7. Stole or attempted to steal school property or private property (Education Code 48900(g))

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing prescription products (Education Code 48900(h))

(cf. 5131.62 - Tobacco)

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))

10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

11. Knowingly received stolen school property or private property (Education Code 48900(l))
12. Possessed an imitation firearm Education Code 48900(m))

Imitation firearm means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug (Education Code 48900(p))
16. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

Hazing means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. Hazing does not include athletic events or school-sanctioned events. (Education Code 48900(q))

17. Engaged in an act of bullying (Education Code 48900(r))

Bullying means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school. (Education Code 48900(r))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section "Additional Grounds for Suspension and Expulsion: Grades 4-12," that has any of the effects described above on a reasonable student.

Electronic act means the creation or transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image, or post on a social network Internet website, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet website shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above. (Education Code 48900(r))

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability. (Education Code 48900(r))

(cf. 1114 - LACOE-Sponsored Social Media)

(cf. 5131.2 - Bullying)

(cf. 6163.4 - Student Use of Technology)

(cf. 6164.4 - Identification and Evaluation of Individuals for Special Education)

(cf. 6164.6 - Identification and Education under Section 504)

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31 (Education Code 48900(t))
19. Made terrorist threats against school officials and/or school property (Education Code 48900.7)

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

Additional Grounds for Suspension and Expulsion: Grades 4-12

A student in grades 4-12 shall be subject to suspension or recommendation for expulsion when it is determined that the student:

1. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - Sexual Harassment)

2. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - Hate-Motivated Behavior)

3. Intentionally engaged in harassment, threats, or intimidation against LACOE personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of school personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

(cf. 5145.3 - Nondiscrimination/Harassment)

Additional Grounds for Suspension and Expulsion: Grades 9-12

Any student in grades 9-12 may be suspended, but not expelled, for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties. (Education Code 48900(k))

(cf. 5131.4 - Student Disturbances)

Suspension from Class by a Teacher

A teacher may suspend a student from class for the remainder of the day and the following day for any of the other acts specified in Education Code 48900 and listed as items #1-18 under "Grounds for Suspension and Expulsion: Grades K-12" above or for disruption or willful defiance at any grade level, including K-8. (Education Code 48910)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

When a teacher suspends a student from the classroom, this shall be considered an absolute last resort. The teacher shall provide at minimum, three (3) other means of correction before choosing to suspend. Other means of correction may be in the form of a verbal warning using positive language, changing the student's seat, and/or conferencing with the student. Teachers shall make every effort to employ positive behavior intervention support strategies within the classroom.

Once all other interventions have been exhausted, only then shall the teacher initiate a classroom suspension. Once initiated, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If located at a LACOE school that serves incarcerated youth, the teacher shall also notify the appropriate Department of Probation staff.

If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended. (Education Code 48910)

As soon as possible after the teacher decides to suspend the student, the student shall ask the student's education rights holder to attend a conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the education rights holder or teacher so requests. (Education Code 48910) Moreover, the teacher must document the incident along with the other means of correction into the LACOE-wide student information system.

A student suspended from class shall not be returned to class during the period of the suspension without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended shall assign classwork for the student to complete during the removal. (Education Code 48913)

At LACOE facilities that serve incarcerated youth, both LACOE and Department of Probation staff shall collaborate to determine the appropriate placement during the course of a classroom suspension.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Suspension by County Superintendent, Principal or Principal's Designee

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The County Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity to have committed any of the acts listed in LACOE policy under "Authority to Expel" and for which the student is required to recommend expulsion. (Education Code 48915(c))

The County Superintendent, principal, or designee may impose a suspension for a first offense if it is determined that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion: Grades K-12" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the County Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the County Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code 48900.5)

(cf. 5125 - Student Records)

For LACOE schools serving incarcerated youth, LACOE administration is expected to collaborate with Department of Probation staff to determine an appropriate location to house students during the course of a suspension.

Length of Suspension

The County Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

When a parent/guardian of a student who has been suspended for two or more school days requests homework that the student would otherwise have been assigned, the student's teacher must provide such homework.

A student may be suspended from school for not more than 20 school days in any school year; suspensions for students with individual education plans are limited to 10 school days in any year. However, if a student enrolls in or is transferred to another school for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year.

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

Due Process Procedures for Suspension

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the County Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the available evidence against the student, and given the opportunity to present the student's version and evidence. (Education Code 48911)

For those students under IDEA, a behavior support plan may be considered and/or determined through an Individual Education Plan (IEP) team meeting.

This conference may be omitted if the County Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the education rights holder and student shall be notified of the student's right to return to school for the purpose of the conference and the conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the County Superintendent or designee. (Education Code 48911)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. Notice to Education Rights Holders: At the time of the suspension, a school employee shall make a reasonable effort to contact the education rights holder by telephone or in person. Whenever a student is suspended, the education rights holder shall also be notified in writing of the suspension. (Education Code 48911)

For LACOE schools serving incarcerated youth, staff must attempt to contact the education rights holder and/or legal guardian. The Department of Probation staff supervising the minor shall not suffice.

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school.

4. Education Rights Holder Conference: Whenever a student is suspended, school officials may request a meeting with the education rights holder to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

If school officials request to meet with the education rights holder, the notice may state that the law requires the education rights holder to respond to such requests without delay. However, no penalties may be imposed on the student for the failure of the education rights holder to attend such a conference. The student may not be denied reinstatement solely because the education rights holder failed to attend the conference. (Education Code 48911)

5. Extension of Suspension: If the administrative panel is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester, the County Superintendent or designee may, in writing, extend the suspension until such time as the administrative panel has made a decision, provided the following requirements are followed: (Education Code 48911)
 - a. The extension of the original period of suspension is preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or education rights holder to challenge the original suspension.
 - b. The County Superintendent, designee, or principal determines, following a meeting in which the student and the student's education rights holder were invited to participate, that the student's presence at the school would endanger persons

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- c. If the student involved is a foster youth, the County Superintendent or designee shall notify the LACOE liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

(cf. 6173.1 - Education for Foster Youth)

- d. If the student involved is a homeless child or youth, the County Superintendent or designee shall notify the LACOE liaison for homeless students. (Education Code 48918.1)

(cf. 6173 - Education for Homeless Children)

In lieu of or in addition to suspending a student, the County Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct the student's behavior and keep the student in school.

On-Campus Suspension

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

- 1. The on-campus suspension classroom shall be staffed in accordance with law.
- 2. The student shall have access to appropriate counseling services.
- 3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
- 4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's education rights holder in person or by telephone. When the assignment is for longer than one class period, this notification may be made in writing. (Education Code 48911.1)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

County Superintendent, Principal or Designee's Authority to Recommend Expulsion

Unless the County Superintendent, principal, or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915)

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for the student's use or other medication prescribed for the student by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the County Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

For those students under IDEA or Section 504, the manifestation determination process will be utilized to determine if the LACOE program is the least restrictive environment or if additional behavioral assessments and a behavior support plan are required. This shall be determined through an Individual Educational Plan team meeting.

Student's Right to Expulsion Hearing

Any student recommended for expulsion shall be entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the County Superintendent, principal, or designee determines that the student has committed the act(s) that form the basis for the expulsion recommendation. (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the County Superintendent or designee's discretion. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

Stipulated Expulsion

After a determination that a student has committed an expellable offense, the County Superintendent, principal, or designee shall offer the student and the student's education rights holder the option to waive a hearing and stipulate to the expulsion or to a suspension of the expulsion under certain conditions. The offer shall be made only after the student or the student's education rights holder has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and the student's education rights holder. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of the student's right to have a full hearing, to appeal the expulsion, and to consult legal counsel.

A stipulated expulsion agreed to by the student and the student's education rights holder shall be effective upon approval by an administrative panel.

Rights of Complaining Witness

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the County Superintendent, principal, or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, the student shall give the complaining witness a copy of the LACOE suspension and expulsion policy and regulation and shall advise the witness of the student's right to: (Education Code 48918.5)

1. Receive five days' notice of the student's scheduled testimony at the hearing
2. Have up to two adult support persons of the student's choosing present at the hearing at the time the student testifies
3. Have a closed hearing during the time the student testifies

Whenever any allegation of sexual assault or sexual battery is made, the County Superintendent, principal, or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Written Notice of the Expulsion Hearing

Written notice of the expulsion hearing shall be forwarded to the student and the student's education rights holder at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based
3. A copy of LACOE's disciplinary rules which relate to the alleged violation
4. Notification of the student's or education rights holder's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in LACOE to any other district in which the student seeks enrollment

This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

(cf. 5119 - Students Expelled from Other Districts)

5. The opportunity for the student or the student's education rights holder to appear in person or be represented by legal counsel or by a non-attorney adviser

Legal counsel means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

Non-attorney adviser means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's education rights holder to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing
7. The opportunity to confront and question all witnesses who testify at the hearing
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Additional Notice of Expulsion Hearing for Foster Youth and Homeless Students

If the student facing expulsion is a foster student, the County Superintendent, principal, or designee shall also send notice of the hearing to the student's attorney and a representative of an appropriate child welfare agency at least 10 days prior to the hearing. (Education Code 48918.1)

If the student facing expulsion is a homeless student, the County Superintendent, principal, or designee shall also send notice of the hearing to the LACOE liaison for homeless students at least 10 days prior to the hearing. (Education Code 48918.1)

Any notice for these purposes may be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding Education Code 35145, the administrative panel shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public to the extent that privacy rights of other students are not violated. (Education Code 48918)

The administrative panel may meet to deliberate and determine whether or not the student should be expelled. If the administrative panel admits any other person to this meeting, the education rights holder, the student, and the counsel of the student also shall be allowed to attend the session. (Education Code 48918(c))

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have the student's testimony heard in closed session (Education Code 48918(c))

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))

Any objection raised by the student or the County Superintendent, principal, or designee to the issuance of subpoenas may be considered by the administrative panel if so requested by the student, before the meeting. The administrative panel's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

If the administrative panel determines that a witness would be subject to unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as described in item #4 below. (Education Code 48918(i))

3. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the administrative panel to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion: Grades K-12" and "Additional Grounds for Suspension and Expulsion: Grades 4-12" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

4. **Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
 - a. Any complaining witness shall be given five days' notice before being called to testify.
 - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, an education rights holder or legal counsel, present during the student's testimony.
 - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
 - d. The person presiding over the hearing may remove a support person whom the student finds is disrupting the hearing.
 - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by an education rights holder, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
 - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, LACOE shall provide a nonthreatening environment.
 - (1) LACOE shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
 - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which the student may leave the hearing room.
 - (3) The person conducting the hearing may:
 - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
 - (b) Limit the time for taking the testimony of a complaining witness to the hours the student is normally in school, if there is no good cause to take the testimony during other hours
 - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
5. Decision: Administrative panel's decision as to whether to expel a student shall be made within 40 school days after the student is removed from the student's school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)**Final Action by the Administrative Panel**

The administrative panel decision is final. If the decision is to not expel, the student shall be reinstated immediately. If the decision is to suspend the enforcement of the expulsion, the student shall be reinstated under the conditions of the suspended expulsion.

Upon ordering an expulsion, the administrative panel shall set a date when the student shall be reviewed for readmission to a school within LACOE. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the administrative panel may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the administrative panel shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the administrative panel shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With education rights holder's consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Written Notice to Expel

The administrative panel shall send written notice of the decision to expel to the student or education rights holder. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and the student's education rights holder (Education Code 48916)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

3. Notice of the student's or education rights holder's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

Decision to Suspend Expulsion Order

In accordance with County Board policy, when deciding whether to suspend the enforcement of an expulsion order, the administrative panel shall take into account the following criteria:

1. The student's pattern of behavior
2. The seriousness of the misconduct
3. The student's attitude toward the misconduct and the student's willingness to follow a rehabilitation program

The suspension of the enforcement of an expulsion shall be governed by the following:

1. The County Superintendent, principal, or designee may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's education rights holder in the student's education. However, an education rights holder's refusal to participate in the rehabilitation program shall not be considered in the determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the administrative panel, County Superintendent or designee if the student commits any of the acts listed under "Grounds for Suspension and Expulsion: Grades K-12" or "Additional Grounds for Suspension and Expulsion: Grades 4-12" above or violates any of the LACOE rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)

For students identified as needing special education and related services under the Individuals with Disabilities Education Act (IDEA), and Section 504, or for students for whom the school had prior knowledge that the student may qualify for special education and related services, the following concerns must be addressed before an expulsion can be recommended and/or rendered:

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

- a. Convene an IEP team and/or 504 meeting (if needed) to conduct a manifestation determination review in accordance with SELPA guidelines.
 - b. If it is determined that the behavior performance is a manifestation of the student's disability, the student may be returned to the placement from which the student was removed, unless the IEP team agrees to a change of placement.
 - c. The IEP team shall also conduct a functional behavioral assessment and/or initiate a behavior support plan, unless both have already been conducted. If one or both has/have already been developed, the IEP team shall review the plan and modify it as necessary to address the behavior.
 - d. If it is determined that the behavior is not a manifestation of the student's disability, the student may be expelled in accordance with the procedures for students without disabilities. The IEP team shall ensure a free appropriate education is provided in the subsequent placement.
5. Upon satisfactory completion of the rehabilitation assignment, the administrative panel, County Superintendent, principal, or designee may reinstate the student in a LACOE school. Upon reinstatement, the County Superintendent, principal, or designee may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
 6. The County Superintendent, principal, or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or education rights holder. The notice shall inform the education rights holder of the alternative educational placement to be provided to the student during the period of expulsion and the student's or education rights holder's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1(b). (Education Code 48918(j))

Appeal

The student or parent/guardian is entitled to file an appeal of the administrative panel decision with the County Board. The appeal must be filed within 30 days of the administrative panel's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

If the student submits a written request for a copy of the written transcripts and supporting documents from LACOE simultaneously with the filing of the notice of appeal with the County Board, LACOE shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The appeal process shall be governed by BP 5144.3. The final decision determined by LACOE Educational Programs' administrative panel will suffice in lieu of the administrative hearing panel stipulated in BP 5144.3. Therefore, the County Board will hear the matter directly, and no additional administrative hearing panel will be required.

Notification to Law Enforcement Authorities

Prior to the suspension or expulsion of any student, the County Superintendent, principal, or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified of any acts by students involving the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

Placement During Expulsion

The County Superintendent, principal, or designee shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at any of these
3. Not housed at the school site attended by the student at the time of suspension

Exception to this is for incarcerated students attending LACOE juvenile court schools. Students attending LACOE juvenile court schools must work in tandem with the Department of Probation and school site LACOE staff to change classes and/or placement as needed.

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

Readmission After Expulsion

Prior to the date set for the student's readmission:

1. The County Superintendent, principal, or designee shall hold a conference with the education rights holder and the student. At the conference, the student's rehabilitation plan shall be reviewed and the County Superintendent, principal, or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and education rights holder shall be asked to indicate in writing their willingness to comply with these regulations.
2. If the readmission is granted, the County Superintendent, principal, or designee shall notify the student and education rights holder, by registered mail, of the decision regarding readmission.
3. The County Superintendent, principal, or designee may deny readmission only if it's found that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other LACOE students or employees. (Education Code 48916)
4. If readmission is denied, the County Superintendent or designee shall continue the student's placement that was initially selected.
5. The County Superintendent, principal, or designee shall provide written notice to the expelled student and education rights holder describing the reasons for denying readmittance. (Education Code 48916)

No student shall be denied readmission into a LACOE school based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

Maintenance of Records

LACOE shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8) Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

SUSPENSION AND EXPULSION/DUE PROCESS (continued)

The County Superintendent, principal, or designee shall, within five working days, honor any other district's request for information about an expulsion from a LACOE school. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)