

**SUSPENSION AND EXPULSION/DUE PROCESS**

The Tuolumne County Superintendent of Schools Office has established policies and standards of behavior in order to promote learning and protect the safety and well being of all students. When these policies and standards are violated, it may be necessary to suspend or expel a student from regular classroom instruction.

Suspended or expelled students shall be denied the privilege of participation in all extracurricular activities during the period of suspension or expulsion.

Except where suspension for a first offense is warranted in accordance with law, suspension shall be imposed only when other means of correction fail to bring about proper conduct. (Education Code 48900.5)

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

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

**Zero Tolerance**

The Board supports a zero tolerance approach to serious offenses in accordance with state and federal law. This approach makes the removal of potentially dangerous students from the classroom a top priority and ensures the standardized treatment of all students. Staff shall immediately report to the Superintendent or designee any incidence of offenses specified in law, Board policy, and administrative regulation as cause for suspension or expulsion.

Students enrolled in County Community Day School, Community Day Middle School, and Cal-SAFE programs are not eligible for expulsion from those programs.

**Student Due Process**

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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)**Supervised Suspension Classroom**

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

**Required Parental Attendance**

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

Whenever a student is suspended from class by a teacher because he/she committed an obscene act, engaged in habitual profanity or vulgarity, disrupted school activities, or otherwise willfully defied valid staff authority, the teacher of the class from which the student was removed may provide that the student's parent/guardian attend a portion of a school day in the class from which the student was suspended. (Education Code 48900.1)

Before requiring parental attendance, the teacher shall make reasonable efforts to have the parent/guardian visit the class voluntarily. The teacher also may inform the parent/guardian about available resources and parent education opportunities. Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the student and the parent/guardian and to improve classroom behavior.

The teacher shall apply this policy uniformly to all students within the classroom. This policy shall apply only to a parent/guardian who lives with the student. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is pursuant to law. (Education Code 48900.1)

The notice shall specify that the attendance may be on either the date the student is scheduled to return to class or within one week thereafter.

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

The principal or designee shall contact a parent/guardian who does not respond to the request to attend school. The Board recognizes that parent/guardian compliance with this policy may be delayed, modified, or prevented for reasons such as serious illness/injury/disability, absence from town, or inability to get release time from work.

County Office regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

**Decision Not to Enforce Expulsion Order**

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

*Legal Reference: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Legal Reference:*

EDUCATION CODE

212.5 *Sexual harassment*  
1981 *Enrollment of students in community school*  
17292.5 *Program for expelled students*  
35146 *Closed sessions (re suspensions)*  
35291 *Rules (for government and discipline of schools)*  
35291.5 *Rules and procedures on school discipline*  
48660-48667 *Community day schools*  
48900-48927 *Suspension and expulsion*  
48950 *Speech and other communication*  
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*  
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*

*Legal Reference continued: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

*Legal Reference: (continued)*

WELFARE AND INSTITUTIONS CODE

729.6 *Counseling*

UNITED STATES CODE, TITLE 18

921 *Definitions, firearm*

UNITED STATES CODE, TITLE 20

7151 *Gun free schools*

COURT DECISIONS

*T.H. v. San Diego Unified School District* (2004) 122 Cal. App. 4<sup>th</sup> 1267

*Woodbury v. Dempsey* (2003) 108 Cal. App. 4<sup>th</sup> 421

*Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H.*, (2001) 85 Cal.App.4<sup>th</sup> 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.* 91 (1997)

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

*Management Resources:*

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 of Safe and Drug-Free Schools:  
<http://www.ed.gov/about/offices/list/osdfs/index.html>

**SUSPENSION AND EXPULSION/DUE PROCESS**

**Definitions**

*Suspension from school* 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 Tuolumne County Superintendent of Schools Office for students of the same grade level
2. Referral to a certificated employee designated by the principal/program administrator 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/program administrator or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

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

*Day* means a calendar day unless otherwise specifically provided. (Education Code 48925)

*School day* means a day upon which the school/program sites of the County Office are in session or weekdays during the summer recess. (Education Code 48925)

*Student* includes a student's parent/guardian or legal counsel. (Education Code 48925)

*Principal's designee* means one or more administrators or, if there is not a second administrator at one school/program site, a certificated person specifically designated by the principal/program administrator, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal/program administrator's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal/program administrator's office. (Education Code 48911)

*School property*, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(s))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

**Notice of Regulations**

At the beginning of each school year, the principal/program administrator of each school/program site shall ensure that all students and parents/guardians are notified in writing of all school/program site rules related to discipline, suspension and expulsion. (Education Code 48900.1, 48980)

*(cf. 5144 - Discipline)*

*(cf. 5145.6 - Parental Notifications)*

**Grounds for Suspension and Expulsion**

A student may be subject to suspension or expulsion when it is determined that he/she:

1. Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense. (Education Code 48900(a))

A student who aids or abets the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31, may be suspended, but not expelled. However, a student may be suspended or expelled pursuant to Education Code 48900(a) once he/she has been adjudged by a juvenile court to have committed, as an aider or abettor, a crime of physical violence in which the victim suffered great or serious bodily injury. (Education Code 48900(s))

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/program site employee, with the principal/program administrator or designee's concurrence. (Education Code 48900(b))

*(cf. 5131 - Conduct)*

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

3. Unlawfully possessed, used, sold, or 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 controlled substance, alcohol beverage, or intoxicant. (Education Code 48900(d))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
6. Caused or attempted to cause damage to school/program site property or private property. (Education Code 48900(f))
7. Stole or attempted to steal school/program site property or private property. (Education Code 48900(g))
8. Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This restriction shall not prohibit a student from using or possessing his/her own prescription products. (Education Code 48900(h))
9. Committed an obscene act or engaged in habitual profanity or vulgarity. (Education Code 48900(i))
10. Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5. (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school/program site personnel engaged in the performance of their duties. (Education Code 48900(k))
12. Knowingly received stolen school/program site property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm, i.e., 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))
14. 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))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school/program site 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))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma. (Education Code 48900(p))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

17. Engaged in, or attempted to engage in, hazing as defined in Penal Code 245.6. (Education Code 48900(q))

Hazing means a method of initiation or preinitiation 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))

18. Made terrorist threats against school officials and/or school/program site 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)

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

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

Sexual harassment means that conduct, 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)*

20. 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 another person, interfering with the exercise of a person's civil rights, or damaging a person's property because of the person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation. (Education Code 233)

*(cf. 5145.9 - Hate-Motivated Behavior)*

21. Intentionally engaged in harassment, threats, or intimidation against County Office personnel or students that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

disorder, and invading the rights of school/program site personnel or students by creating an intimidating or hostile educational environment (Education Code 48900.4)

*(cf. 5145.3 - Nondiscrimination/Harassment)*

22. Engaged in an act of bullying, including, but not limited to, bullying by means of an electronic act, directed toward a student or school personnel. (Education Code 48900(r))

Bullying means one or more acts by a student or group of students that constitutes sexual harassment pursuant to Education Code 48900.2, as defined in item #19 above; hate violence pursuant to Education Code 48900.3, as defined in item #20 above; or harassment, threats, or intimidation pursuant to Education Code 48900.4, as defined in item #21 above. (Education Code 32261)

Electronic act means the transmission of a communication, including, but not limited to, a message, text, sound, or image by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. (Education Code 32261)

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity or school attendance occurring at any County Office school/program site under the jurisdiction of the Superintendent or principal/program administrator or within any other school district, including but not limited to the following circumstances: (Education Code 48900)

1. While on school grounds
2. While going to or coming from school/program site
3. During the lunch period, whether on or off the school campus
4. During, going to, or coming from a school -sponsored activity

The Superintendent or principal/program administrator may use his/her discretion to provide alternatives to suspension or expulsion for a student subject to discipline under this administrative regulation, including, but not limited to, counseling and an anger management program. (Education Code 48900(r))

*(cf. 5138 - Conflict Resolution/Peer Mediation)*

Alternatives to suspension or expulsion shall be used with students who are truant, tardy, or otherwise absent from assigned school activities.

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Truancy)*

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

**Removal from Class by a Teacher/Parental Attendance**

A teacher may suspend any student from his/her class for the remainder of the day and the following day for any act listed in “Grounds for Suspension and Expulsion” above. (Education Code 48910)

A teacher also may refer a student to the principal/program administrator or designee for consideration of suspension from school. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal/program administrator or designee and send the student to the principal/program administrator or designee for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal/program administrator. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was removed. (Education Code 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Pursuant to County Office policy, a teacher may provide that the parent/guardian of a student whom the teacher has removed attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal/program administrator shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

**Suspension by Superintendent, Principal or Principal's Designee**

The Superintendent, principal/program administrator or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

The Tuolumne County Superintendent of Schools or designee shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

1. Possessing, as verified by a County Office employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school/program site employee, with the principal/program administrator or designee's concurrence
2. Brandishing a knife, as defined in Education Code 48915(g), at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault or committing a sexual battery as defined in item #14 under "Grounds for Suspension and Expulsion" above
5. Possession of an explosive as defined in 18 USC 921

Explosive means a destructive device and includes, but is not limited to, any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine or similar device. A destructive device includes any other type of weapon (except a shotgun or shotgun shell recognized by the United States Secretary of Army as suitable for sporting purposes) which might be converted to project an explosive. (18 USC 921)

Suspension also may be imposed upon a first offense if the Superintendent, principal/program administrator or designee determines that the student violated items #1-5 listed in "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment the student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. However, this restriction on the number of days of suspension does not apply when the suspension is extended pending an expulsion. (Education Code 48903, 48911, 48912)

The County Superintendent or designee may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903)

Suspensions shall be initiated according to the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the principal/program administrator, designee, or the Superintendent with the student and, whenever practicable, the teacher, supervisor, or school/program site employee who referred the student to the principal/program administrator. At the conference, the student shall be informed of the reason for the disciplinary action and

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

the evidence against him/her; the student shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the principal/program administrator, designee, or the Superintendent determines that an emergency situation exists. An emergency situation involves a clear and present danger to the lives, safety, or health of students or school/program site personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such 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/program administrator or designee of the school/program site in which the student is enrolled at the time of the misbehavior. A school/program site employee shall report the suspension, including the name of the student and the cause for the suspension, to the County Superintendent or designee.
3. **Notice to Parents/Guardians:** At the time of the suspension, a school/program site employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

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. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the County Office policy involved and any other pertinent matter. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied readmission solely because the parent/guardian failed to attend. (Education Code 48911)

5. **Extension of Suspension:** If the Superintendent, Principal or designee is considering the expulsion of a suspended student from any school or the suspension of a student for

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the presiding authority has made a decision. (Education Code 48911(g))

Any extension of the original period of suspension shall be 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 parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

**Suspension by the County Office**

The County Office may suspend a student for any of the acts listed in "Grounds for Suspension and Expulsion" above and within the limits specified in "Suspension by Superintendent, Principal or Principal's Designee" above. (Education Code 48912)

The County Office may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed in "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the County Office is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold closed sessions if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

*(cf. 9321 - Closed Session Purposes and Agendas)*

The County Office shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the County Office's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

**Supervised Suspension Classroom**

Students for whom an expulsion action has not been initiated and who pose no imminent danger or threat to the school/program site may be assigned to a separate, supervised suspension classroom for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

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1. The supervised classroom shall be staffed in accordance with law.
2. The supervised classroom shall promote completion of school work and tests missed by the student during the suspension.
3. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the classroom shall assign school work.

At the time a student is assigned to a supervised classroom, the principal/program administrator or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

**Authority to Expel**

A student may be expelled only by the County Office. The County Office shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

The County Office may also order a student expelled for any of the acts listed above under "Grounds for Suspension and Expulsion" upon recommendation by the principal, Superintendent, hearing officer, or administrative panel, based on either or both of the following finding(s): (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

**Mandatory Recommendation for Expulsion**

Unless the principal, Superintendent or designee finds that expulsion is inappropriate due to particular circumstances, the principal or the Superintendent or designee shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g), explosive, 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 the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

## **SUSPENSION AND EXPULSION/DUE PROCESS (continued)**

### **Mandatory Recommendation and Mandatory Expulsion**

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred. (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 Office's discretion. (Education Code 48918(a))

If the County Office finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the County Office finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of County Office meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

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

### **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 Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the district's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present in the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent 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)

**Written Notice of the Expulsion Hearing**

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian 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 district disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the district 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 parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

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.

Nonattorney advisor 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 parent/guardian 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)

**Conduct of Expulsion Hearing**

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Office 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 request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the County Office may meet in closed session to deliberate and determine whether or not the student should be expelled. If the County Office admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student shall also be allowed to attend the closed 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 his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (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))
3. Subpoenas: Before commencing a student expulsion hearing, the County Office may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the County Office or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with the Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20 (Education Code 48918(i))

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

If the County Office determines, or if the hearing officer or administrative panel finds and submits to the County Office, 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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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))

4. 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 County Office 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" above. (Education Code 48918(h))

Findings of fact shall be based solely on the evidence at the hearing. While 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.

5. Testimony by Complaining Witnesses: The following procedures shall be observed when hearings involve 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, a parent/guardian or legal counsel, present during his/her 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 he/she 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.
  - 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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

- represented by a parent/guardian, 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, the district shall provide a nonthreatening environment.
    - (1) The district 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 he/she 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 he/she 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
  - 6. **Decision Within 10 School Days:** The County Office's decision on whether to expel a student shall be made within 10 school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))
  - 7. **Decision Within 40 School Days:** If the County Office does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

**Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

Instead of conducting an expulsion hearing itself, the County Office may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the County Office may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the County Office or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the County Office as specified above in "Conduct of Expulsion Hearing." (Education Code 48918(d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the County Office. If expulsion is not recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with district staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the County Office. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The County Office may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the County Office may order. (Education Code 48918(f))

In accordance with County Office policy, the hearing officer or administrative panel may recommend that the County Office suspend the enforcement of the expulsion for a period of one year. (Education Code 48917, 48918)

The County Office shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

**Final Action by the County Office**

Whether the expulsion hearing is conducted in closed or public session by the County Office, a hearing officer, or an administrative panel, the final action to expel shall be taken by the County Office at a public meeting. (Education Code 48918(j))

*(cf. 9321.1 - Closed Session Actions and Reports)*

If the County Office conducts the hearing and reaches a decision not to expel, this decision shall be final and the student shall be reinstated immediately.

Upon ordering an expulsion, the County Office shall set a date when the student shall be reviewed for readmission to a school within the district. For a student expelled for an act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the County Office 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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

expulsion is ordered during the summer session or the intersession period of a year-round program, the County Office 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 County Office 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 parent/guardian 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 Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed in Education Code 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915 (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Office of Education (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian'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 Not to Enforce Expulsion Order**

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

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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

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

1. The County Office 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 parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the County Office's 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 County Office if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of the enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the County Office shall reinstate the student in a district school. Upon reinstatement, the County Office may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent 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 parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Office. (Education Code 48918(j)).
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Office. (Education Code 48917)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

**Right to Appeal**

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

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

**Notifications to Law Enforcement Authorities**

Prior to the suspension or expulsion of any student, the 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 or possession of weapons or firearms in violation of 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)

**Post-Expulsion Placements**

The County Office 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 such a site
3. Not housed at the school site attended by the student at the time of suspension

(cf. 6185 - Community Day School)

When the placement described above is not available, and when the County Superintendent so

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

certifies, students expelled for acts described in items #6-13 and #20-22 under "Grounds for Suspension and Expulsion" above may be instead referred to a program of study that is provided at another comprehensive middle, junior, or senior high school, or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

**Readmission After Expulsion**

Readmission procedures shall be as follows:

1. On the date set by the County Office when it ordered the expulsion, the district shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.3. The Superintendent or designee shall transmit to the County Office his/her recommendation regarding readmission. The County Office shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.4.If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the County Office's decision regarding readmission.5.The County Office may deny readmission only if it finds 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 district students or employees. (Education Code 48916)6.If the County Office denies the readmission of a student, the County Office shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)7. The County Office shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the County Office's determination of the educational program which the County Office has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)Maintenance of RecordsThe County Office shall maintain a record of each expulsion, including the specific cause of the expulsion. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon receipt of a written request by the admitting school. (Education Code 48900.8, 48918(k))

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)

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

*(cf. 5119 - Students Expelled from Other Districts)*

**Outcome Data**

The Superintendent or designee shall maintain the following data: (Education Code 48900.8, 48916.1)

1. The number of students recommended for expulsion
2. The specific grounds for each recommended expulsion
3. Whether the student was subsequently expelled
4. Whether the expulsion order was suspended
5. The type of referral made after the expulsion
6. The disposition of the student after the end of the expulsion period

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)**

A student identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act (IDEA) is subject to the same grounds for suspension and expulsion which apply to students without disabilities.

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

**Procedures for Students Not Yet Eligible for Special Education Services**

A student who has not been officially identified as a student with disabilities pursuant to IDEA and who has engaged in behavior that violated the Tuolumne County Superintendent of Schools Office County Office's code of student conduct may assert any of the protections under IDEA only if the County Office *had knowledge* that the student is disabled before the behavior that precipitated the disciplinary action occurred. (20 USC 1415(k)(5); 34 CFR 300.534)

The County Office shall be deemed to *have knowledge* that the student has a disability if one of the following conditions exists: (20 USC 1415(k)(5); 34 CFR 300.534)

1. The parent/guardian has expressed concern to County Office supervisory or administrative personnel in writing, or to a teacher of the student, that the student is in need of special education or related services.
2. The parent/guardian has requested an evaluation of the student for special education pursuant to 34 CFR 300.300-300.311.

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

3. The teacher of the student or other County Office personnel has expressed specific concerns directly to the County Office's director of special education or to other supervisory County Office personnel about a pattern of behavior demonstrated by the student.

The County Office would be deemed to *not have knowledge* that a student is disabled if the parent/guardian has not allowed the student to be evaluated for special education services or has refused services. In addition, the County Office would be deemed to *not have knowledge* if the County Office conducted an evaluation pursuant to 34 CFR 300.300-300.311 and determined that the student was not an individual with a disability. When the County Office is deemed to not have knowledge of the disability, the student shall be disciplined in accordance with procedures established for students without disabilities who engage in comparable behavior. (20 USC 1415(k)(5); 34 CFR 300.534)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)** (continued)

If a request is made for an evaluation of a student during the time period in which the student is subject to disciplinary measures pursuant to 34 CFR 300.530, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities. (20 USC 1415(k)(5); 34 CFR 300.534)

**Suspension**

The Tuolumne County Superintendent of Schools or designee may suspend a student with a disability for up to 10 consecutive school days for a single incident of misconduct, and for up to 20 school days in a school year, as long as the suspension(s) does not constitute a change in placement pursuant to 34 CFR 300.536. (Education Code 48903; 34 CFR 300.530)

The principal/program administrator or designee shall monitor the number of days, including portions of days, in which a student with a valid individualized education program (IEP) has been suspended during the school year.

*(cf. 6159 - Individualized Education Program)*

The County Office shall determine, on a case-by-case basis, whether a pattern of removals of a student from his/her current educational placement for disciplinary reasons constitutes a change of placement. A *change of placement* shall be deemed to have occurred under any of the following circumstances: (34 CFR 300.536)

1. The removal is for more than 10 consecutive school days.
2. The student has been subjected to a series of removals that constitute a pattern because of all of the following:
  - a. The series of removals total more than 10 school days in a school year.
  - b. The student's behavior is substantially similar to his/her behavior in previous incidents that resulted in the series of removals.
  - c. Additional factors, such as the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another, indicate a change of placement.

If the removal has been determined to be a *change of placement* as specified in items #1-2 above, the student's IEP team shall determine the appropriate educational services. (34 CFR 300.530)

## **SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)** (continued)

### **Services During Suspension**

Any student suspended for more than 10 school days in the same school year shall continue to receive services during the term of the suspension. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed as provided in 34 CFR 300.101(a), so as to enable the student to continue to participate in the general education curriculum in another setting and to progress toward meeting the goals as set out in his/her IEP. (20 USC 1412(a)(1)(A); 34 CFR 300.530)

If a student with disabilities is excluded from County Office van transportation, the student shall be provided with an alternative form of transportation at no cost to the student or his/her parent/guardian, provided that transportation is specified in his/her IEP. (Education Code 48915.5)

*(cf. 3541.2 - Transportation for Students with Disabilities)*

### **Interim Alternative Educational Placement Due to Dangerous Behavior**

The County Office may unilaterally place a student with a disability in an appropriate interim alternative educational setting for up to 45 school days, without regard to whether the behavior is a manifestation of the student's disability, when the student commits one of the following acts while at school, going to or from school, or at a school-related function: (20 USC 1415(k)(1)(G); 34 CFR 300.530)

1. Carries or possesses a weapon, as defined in 18 USC 930
2. Knowingly possesses or uses illegal drugs
3. Sells or solicits the sale of a controlled substance as identified in 21 USC 812(c), Schedules I-V
4. Inflicts serious bodily injury upon another person as defined in 18 USC 1365

The student's interim alternative educational setting shall be determined by his/her IEP team. (20 USC 1415(k)(1)(G), 34 CFR 300.531)

On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)** (continued)

A student who has been removed from his/her current placement because of dangerous behavior shall receive services to the extent necessary to allow him/her to participate in the general education curriculum and to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

**Manifestation Determination**

The following procedural safeguards shall apply when a student is suspended for more than 10 consecutive school days, when a series of removals of a student constitutes a pattern, or when a change of placement of a student is contemplated due to a violation of the County Office's code of conduct:

1. Notice: On the date the decision to take disciplinary action is made, the parents/guardians of the student shall be notified of the decision and provided the procedural safeguards notice pursuant to 34 CFR 300.504. (20 USC 1415(k)(1)(H); 34 CFR 300.530)

*(cf. 5145.6 - Parental Notifications)*

*(cf. 6159.1 - Procedural Safeguards and Complaints for Special Education)*

2. Manifestation Determination Review: Immediately if possible, but in no case later than 10 school days after the date the decision to take disciplinary action is made, a manifestation determination review shall be made of the relationship between the student's disability and the behavior subject to the disciplinary action. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

At the manifestation determination review, the County Office, the student's parent/guardian, and relevant members of the IEP team (as determined by the County Office and parent/guardian) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents/guardians, to determine whether the conduct in question was either of the following: (20 USC 1415(k)(1)(E); 34 CFR 300.530)

- a. Caused by or had a direct and substantial relationship to the student's disability
- b. A direct result of the County Office's failure to implement the student's IEP, in which case the County Office shall take immediate steps to remedy those deficiencies

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)** (continued)

If the manifestation review team determines that a condition in either #a or #b above was met, the conduct shall then be determined to be a manifestation of the student's disability. (20 USC 1415(k)(1)(E); 34 CFR 300.530)

3. **Determination that Behavior is a Manifestation of the Student's Disability:** When the conduct has been determined to be a manifestation of the student's disability, the IEP team shall conduct a functional behavioral assessment, unless a functional behavioral assessment had been conducted before the occurrence of the behavior that resulted in the change of placement, and shall implement a behavioral intervention plan for the student. If a behavior intervention plan has already been developed, the IEP team shall review the behavioral intervention plan and modify it as necessary to address the behavior. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

The student shall be returned to the placement from which he/she was removed, unless the parent/guardian and County Office agree to a change of placement as part of the modification of the behavioral intervention plan. (20 USC 1415(k)(1)(F); 34 CFR 300.530)

*(cf. 6159.4 - Behavioral Interventions for Special Education Students)*

4. **Determination that Behavior is Not a Manifestation of the Student's Disability:** If the manifestation determination review team determines that the student's behavior was not a manifestation of his/her disability, the student may be disciplined in accordance with the procedures for students without disabilities. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

The student shall receive services to the extent necessary to participate in the general education curriculum in another setting and to allow him/her to progress toward meeting the goals set out in his/her IEP. As appropriate, the student shall also receive a functional behavioral assessment and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur. (20 USC 1415(k)(1)(D); 34 CFR 300.530)

*(cf. 6158 - Independent Study)*

*(cf. 6185 - Community Day School)*

**Due Process Appeals**

If the parent/guardian disagrees with any County Office decision regarding placement under 34 CFR 300.530 (suspension and removal for dangerous circumstances) or 34 CFR 300.531 (interim alternative placement), or the manifestation determination under 34 CFR 300.530(e), he/she may appeal the decision by requesting a hearing. The County Office may request a hearing if the County Office believes that maintaining the student's current placement is substantially likely to result in injury to the student or others. In order to request a hearing, the requesting party shall file a complaint pursuant to 34 CFR 300.507 and 300.508(a) and (b). (20 USC 1415(k)(3); 34 CFR 300.532)

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES)** (continued)

Whenever a hearing is requested as specified above, the parent/guardian or the County Office shall have an opportunity for an expedited due process hearing consistent with requirements specified in 34 CFR 300.507, 300.508 (a)-(c), and 300.510-300.514.

If the student's parent/guardian or the County Office has initiated a due process hearing under 34 CFR 300.532 as detailed above, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day time period, whichever occurs first, unless the parent/guardian and County Office agree otherwise. (20 USC 1415(k)(4); 34 CFR 300.533)

**Readmission**

Readmission procedures for students with disabilities shall be the same as those used for all students. Upon readmission, an IEP team meeting shall be convened.

**Notification to Law Enforcement Authorities**

Prior to the suspension of any student with a disability, the principal/program administrator or designee shall notify appropriate city or county law enforcement authorities of any act of assault with a deadly weapon which may have violated Penal Code 245. (Education Code 48902)

The principal/program administrator or designee also shall notify appropriate city or county law enforcement authorities of acts by any student with a disability which may involve the possession or sale of narcotics or of a controlled substance or possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school/program site day after a suspension of a student with disabilities, the principal/program administrator or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any act by the student 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)

*(cf. 5131.7 - Weapons and Dangerous Instruments)*

*Legal Reference: (see next page)*

**SUSPENSION AND EXPULSION/DUE PROCESS (STUDENTS WITH DISABILITIES) (continued)**

*Legal Reference:*

EDUCATION CODE

35146 *Closed sessions (re suspensions)*  
35291 *Rules (of governing board)*  
48203 *Reports of severance of attendance of disabled students*  
48900-48925 *Suspension and expulsion*  
56000 *Special education; legislative findings and declarations*  
56320 *Educational needs; requirements*  
56321 *Development or revision of individualized education program*  
56329 *Independent educational assessment*  
56340-56347 *Individual education program teams*  
56505 *State hearing*

PENAL CODE

245 *Assault with deadly weapon*  
626.2 *Entry upon campus after written notice of suspension or dismissal without permission*  
626.9 *Gun-Free School Zone Act*  
626.10 *Dirks, daggers, knives, razors or stun guns*

UNITED STATES CODE, TITLE 18

930 *Weapons*

1365 *Serious bodily injury*

UNITED STATES CODE, TITLE 20

1412 *State eligibility*

1415 *Procedural safeguards*

UNITED STATES CODE, TITLE 21

812(c) *Controlled substances*

UNITED STATES CODE, TITLE 29

706 *Definitions*

794 *Rehabilitation Act of 1973, Section 504*

CODE OF FEDERAL REGULATIONS, TITLE 34

104.35 *Evaluation and placement*

104.36 *Procedural safeguards*

300.1-300.818 *Assistance to states for the education of students with disabilities, especially:*

300.530-300.537 *Discipline procedures*

COURT DECISIONS

*Schaffer v. Weast* (2005) 125 S. Ct. 528

*Parents of Student W. v. Puyallup School District*, (1994 9th Cir.) 31 F.3d 1489

*M.P. v. Governing Board of Grossmont Union High School District*, (1994) 858 F.Supp. 1044

*Honig v. Doe*, (1988) 484 U.S. 305

*Management Resources:*

FEDERAL REGISTER

*Rules and Regulations, August 14, 2006, Vol. 71, Number 156, pages 46539-46845*

WEB SITES

California Department of Education, Special Education: <http://www.cde.ca.gov/sp/se>

U.S. Department of Education, Office of Special Education Programs:

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

**STUDENT EXPULSION APPEALS**

The Tuolumne County Board of Education shall hear and determine an appeal of an expulsion order issued against a student by a school district within the jurisdiction of the county.

A student expelled by the governing board of a school district or his/her parent/guardian (appellant) may appeal the expulsion to the County Board within 30 days of the school district's action. The appeal shall be filed in writing and shall include the following information:

1. Name and grade of the expelled student
2. Contact address and telephone number of the student and/or parent/guardian
3. Name of respondent school board
4. Date of respondent school board's action to expel student
5. Ground(s) on which appeal is based

The appellant shall submit to the County Board, a certified copy of the written transcripts and supporting documents of the proceedings before the school district. Because delay in receiving the transcripts may prejudice the student's case, the student is encouraged to request a copy of the transcripts and other related records from the district no later than the date on which the appeal is filed. (Education Code 48921)

The County Board shall hold a hearing within 20 school days of the filing of the appeal. (Education Code 48919)

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon the student and the respondent school board, by certified mail, return receipt requested, a notice of the hearing including details such as the date, time and place of the hearing. The notice shall also contain a statement that the hearing shall be in closed session unless the student requests in writing at least five days prior to the hearing, that the hearing be conducted in open session.

**Conduct of Expulsion Hearing**

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Board shall hear an appeal of an expulsion order in closed session, unless the student requests in writing at least ten days prior to the hearing that the hearing be conducted at a public meeting. If such request is made, the hearing shall be public unless another student's privacy rights would be violated. (Education Code 48920)

**STUDENT EXPULSION APPEALS** (continued)

Whether the expulsion hearing is held in closed or public session, the County Board may meet in closed session to deliberate on the appeal. If the County Board admits one of the parties or their representative(s) to the closed session, the other party or their representative(s) shall also be allowed to attend the closed session. (Education Code 48920)

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 48919)

**Scope of Review**

The County Board shall determine the appeal based on the record of the hearing before the district governing board and other applicable documentation and/or regulations. No evidence other than that contained in the record of proceedings of the district governing board shall be heard except in a *de novo* proceeding, granted pursuant to Education Code 48923. (Education Code 48921)

A *de novo* proceeding involves an independent determination by the County Board, of all the issues previously considered by the school district's governing board.

The County Board's review shall be limited to: (Education Code 48922)

1. Whether the governing board acted without or in excess of its jurisdiction.
2. Whether there was a fair hearing before the governing board.
3. Whether there was a prejudicial abuse of discretion in the hearing. Abuse of discretion is established if:
  - a. School officials did not meet the procedural requirements of Education Code 48900-48926;
  - b. The decision to expel the student is not supported by the findings prescribed by Education Code 48915; or
  - c. The findings are not supported by the evidence
4. 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 governing board.

**STUDENT EXPULSION APPEALS** (continued)

**Final Order of the County Board**

The County Board shall render its final decision within three school days of the hearing unless the student requests a postponement. (Education Code 48919)

The County Board's decision shall be limited as follows: (Education Code 48923)

1. Where the County Board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded at the hearing before the governing board, the County Board may remand the matter to the governing board for reconsideration or grant a hearing *de novo*.
2. Where the County Board determines that the governing board's decision is not supported by findings required to be made by Education Code 48915, but evidence supporting such findings exists in the record of the proceedings, the County Board shall remand the matter to the governing board for adoption and inclusion of the required findings.
3. In all other cases, the County Board shall either affirm or reverse the decision of the governing board. If the County Board reverses a governing board's decision, the County Board may direct the governing board to expunge all references to the expulsion action from the district and student's records, and the expulsion shall be deemed not to have occurred.

The decision of the County Board shall be final and binding upon the student and the governing board. The student and the governing board shall be notified of the final order of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered. (Education Code 48924)

*Legal Reference: (see next page)*

**STUDENT EXPULSION APPEALS (continued)**

*Legal Reference:*

EDUCATION CODE

1981 Enrollment of students

17292.5 Program for expelled students

35145 Public meetings

35146 Closed sessions (re suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48660-48666 Community day schools

48900-48926 Suspension and expulsion

48950 Speech and other communication

49073-49079 Privacy of student records

GOVERNMENT CODE

11455.20 Contempt

54950-54962 Ralph M. Brown Act (re closed sessions)

COURT DECISIONS

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H., (2001) 85 Cal.App.4<sup>th</sup> 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, 308

*Management Resources:*

CDE PROGRAM ADVISORIES

0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

WEB SITES

CDE: <http://www.cde.ca.gov>

CSBA: <http://www.csba.org>

**STUDENT EXPULSION APPEALS**

**Conduct Of The Hearing**

The Hearing Officer, Board Chairman, or other Board Designee shall conduct the hearing in order to ensure that due process is afforded to all of the parties. Such designee shall be responsible for the determination of what evidence will be admitted and considered by the board, the reasonable time period for argument, the appropriateness of subpoena requests (issuance when there is good cause shown), ruling on objections and the general tenor of the hearing in terms of appropriateness of the parties' behavior. The designee shall have the authority to exclude parties who cause disruption to the proceedings. Additionally, the designee shall have the authority to hold a party in contempt under the following circumstances:

**Contempt**

The Tuolumne County Board of Education may sanction persons present at the hearing for the following conduct:

1. Disobedience of or resistance to a lawful order.
2. Refusal to take the oath or affirmation as a witness or thereafter refusal to be examined.
3. Obstruction or interruption of the due course of the proceeding during a hearing or near the place of the hearing by any of the following:
  - a. Disorderly, contemptuous or insolent behavior toward the presiding officer while conducting the proceeding.
  - b. Breach of the peace, boisterous conduct or violent disturbance.
  - c. Other unlawful interference with the process or proceedings of the agency.
4. Violation of the prohibition of ex parte communications under Article 7 (commencing with Education Code 11430.10)
5. Failure or refusal, without substantial justification, to comply with a deposition order, discovery request, subpoena or other order of the presiding officer, or moving, without substantial justification, to compel discovery.

## **STUDENT EXPULSION APPEALS (continued)**

### **Order to Show Cause Procedure**

The County Board president, acting Board president or hearing officer may certify the facts that justify the contempt sanction against a person to the superior court in Tuolumne County. The court shall thereupon issue an order directing the person found in contempt by the Board to appear before the court at a specified time and place, and then and there to show cause why the person should not be punished for contempt.

### **Record of Hearing**

The hearing before the Board shall be recorded by tape recorder or court reporter. Parties and witnesses shall be made aware of this before the hearing has commenced. In the event either party requests a transcript of the hearing, such party shall bear the cost of preparing such transcript.

### **Abandonment of Appeal**

An appeal will be deemed abandoned and the appeal dismissed if either:

1. The appellant (pupil, parent, or guardian) fails to provide the transcript referred to in section 3 above; or
2. The appellant (pupil, parent, or guardian) fails to appear at the time set for the hearing.

### **Procedure for Hearing De Novo**

In the event the Board grants a hearing *de novo*, the following procedure shall apply:

1. The pupil and the pupil's parent or guardian shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within twenty school days of the decision of the Board to grant a hearing, unless the pupil or the pupil's parent or guardian requests in writing that the hearing be postponed (when this deadline is impracticable, an extension of up to five school days is permitted for good cause.) Such request for postponement shall be made at least five days prior to the date of the hearing.
2. Written notice of the hearing shall be forwarded to the pupil or the pupil's parent or guardian at least ten days prior to the date of the hearing. Such notice shall include: The date and place of the hearing, a statement of the specific facts and charges upon which the proposed expulsion is based, a copy of all the rules of the district which pertain to discipline adopted pursuant to Education Code Section 35291, and the

**STUDENT EXPULSION APPEALS** (continued)

- opportunity of the pupil or the pupil's parent or guardian to: Appear in person or to employ and be represented by counsel, inspect and obtain copies of all documents to be used at the hearing, confront and question all witnesses who testify at the hearing, question all other evidence presented, and present oral and documentary evidence on the pupil's behalf, including witnesses.
3. Prior to the commencement of the hearing, the County Board may issue subpoenas at the request of either the Superintendent of Schools or the Superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the Board designee or hearing officer may issue subpoenas at the request of either the County Superintendent of Schools or the Superintendent's designee or the pupil.
- All subpoenas shall be issued in accordance with Education Codes 1985, 1985.1 and 1985.2 of the Code of Civil Procedure.
4. The County Board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or the pupil's parent or guardian request in writing at least five days prior to the date of the hearing that the hearing be a public meeting. If such request is made of the County Board, the meeting shall be public.
  5. A record of the hearing shall be made. Such record may be maintained by any means, including electronic recording, so long as a reasonably accurate written transcription of the proceedings can be made.
  6. Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the County Board to expel must be based upon substantial evidence relevant to the charge. Except as provided in #10-f., no evidence to expel shall be based solely upon hearsay evidence.
  7. At the hearing, the representative of the district shall communicate to the County Board the facts upon which the charges are made. If the incident was observed by persons, these persons should be called into the hearing to tell what they saw, heard, smelled, tasted, or otherwise observed. Sworn declarations of witnesses may be presented if it is determined that the disclosure of the identity of a witness and the testimony of the witness at the hearing would subject the witness to an unreasonable risk of harm. Relevant writings shall be presented to the County Board. Every fact upon which the charges against the students are based should be presented at the hearing. Board members and other persons hearing the matter may only consider facts presented to them at the time of the hearing. The district and the pupil may stipulate to what the facts are, or what some of the facts are.

**STUDENT EXPULSION APPEALS** (continued)

8. Witnesses shall be sworn and testify under oath. The president of the County Board or presiding officer will swear the witnesses. The form of oath should be as follows:

“Do you solemnly swear (or affirm, as the case may be), that the evidence you shall give in this matter pending before the County Board of Education shall be the truth, the whole truth, and nothing but the truth.”
9. The County Board may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the above County Board.
10. The student or the student's parent or guardian shall have the opportunity to:
  - a. Appear in person or to employ and be represented by counsel.
  - b. Inspect and obtain copies of all documents to be used at the hearing.
  - c. Confront and question all witnesses who testify at the hearing.
  - d. Request that the board issue subpoenas.
  - e. Question all other evidence presented.
  - f. Present oral and documentary evidence on the student's behalf, including witnesses.
  - g. Examine the writings presented at the hearing.
  - h. Ask witnesses relevant questions about the incident upon which the charges are based.
  - i. Bring in witnesses (including the student) and present documents to show the pupil's version of what occurred.
11. The following special rules will apply to a hearing *de novo* when the student is charged with sexual assault or sexual battery:
  - a. A complaining witness shall be given five calendar days notice prior to be called to testify.
  - b. The complaining witness shall be entitled to have up to two adult support persons present during his/her testimony. The support person may be a parent, guardian, legal counselor other adult.

**STUDENT EXPULSION APPEALS** (continued)

- c. The support person(s) shall be admonished that the hearing is confidential, and the support person(s) may be removed from the hearing if they cause disruption to the proceedings.
- d. If one or both of the support persons is also a witness the provisions of Section 868.5 of the Penal Code shall be followed for the hearing.
- e. The complaining witness's prior sexual conduct shall be presumed to be inadmissible unless the hearing officer determines that extraordinary circumstances exist which require such testimony. Before that determination, the witness shall be given notice and an opportunity to object to the admission of that evidence. The witness may be represented in this regard by a parent, guardian, legal counselor other support person. Under no circumstance will opinion testimony regarding the reputation of the witness for sexual behavior be considered.
- f. If the student being expelled requests a hearing open to the public, the complaining witness has the right to have his/her testimony given in closed session if:
  - (1) Testifying in public would subject the complaining witness to serious psychological harm, and
  - (2) There are no alternative procedures to prevent the threatened harm. Examples of alternative procedures include a videotaped deposition and examination in another place and communicated to the hearing room by means of closed circuit television.
- g. The County Board shall provide a non-threatening environment for the hearing.
- h. At least 10 days prior to the hearing, the complaining witness shall be provided with written notice of his/her rights including:
  - (1) Receiving at least five days notice of the witness's scheduled testimony.
  - (2) Having up to two adult support persons present in the hearing when the witness testifies at the hearing.
  - (3) Having the hearing closed to the public during complainant's testimony.
  - (4) Having the hearing postponed for one day to accommodate the witness's physical, mental or emotional needs.

**STUDENT EXPULSION APPEALS** (continued)

12. If the pupil, parent, guardian, or attorney fails to object at the hearing that these rules are not being properly followed, or that any other law or requirement of due process is not being followed, these objections shall be deemed waived.
13. Whether a pupil expulsion hearing is conducted in closed or public session, the County Board may deliberate in closed session. As a general rule, the Board's attorney will not be part of the closed session deliberation. Final action to expel shall be taken by the Board at a public meeting. The Board shall make specific findings and reach a decision. Written notice of any decision to expel shall be sent to the pupil or parent or guardian.
14. The County Board shall act by majority vote of all the members present.
15. The decision of the County Board shall be final and binding upon the pupil and upon the governing board of the school district. The pupil and the school district governing board shall be notified of the final order of the county board, in writing, either by personal service or by certified mail. The order shall become final when rendered.

**QUESTIONING AND APPREHENSION**

Law enforcement officers have the right to interview and question students on school/program site premises. When such an interview is requested, the principal/program administrator or designee shall ascertain the officer's identity, official capacity, and the authority under which he/she acts. If the officer needs to interview or question the student immediately, the principal/program administrator or designee shall accommodate the process in a way that causes the least possible disruption to the school/program site, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

Except in cases of child abuse or neglect, the principal/program administrator or designee shall notify the student's parent/guardian when a law enforcement officer requests an interview on school/program premises.

At the law officer's discretion and with the student's approval, the principal/program administrator or designee may be present during the interview.

If the law officer finds it necessary to remove the student from school, the principal/program administrator or designee shall first ascertain the reason for such action. Upon releasing the student, the principal/program administrator or designee shall immediately attempt to inform the student's parent/guardian.

Personnel responsible for releasing a student from school custody shall exercise extreme diligence to prevent such release to any unauthorized or unidentified person.

*(cf. 5142 - Safety)*

**Subpoenas**

Although subpoenas may legally be served at the school/program site, the County Office believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. In these situations, steps should be taken to ensure a minimum of embarrassment or loss of class time for the student.

*Legal Reference: (see next page)*

**QUESTIONING AND APPREHENSION (continued)**

*Legal Reference:*

EDUCATION CODE

44807 *Duty concerning conduct of pupils*

48264 *Arrest of truants*

48265 *Delivery of truant*

48902 *Notice to law authorities*

48906 *Release of minor pupil to peace officers; notice to parent, guardian or relative*

48909 *Narcotics and other hallucinogenic drugs (re arrest)*

PENAL CODE

830-832.8 *re peace officers*

833-851.85 *re arrests*

1328 *Service of subpoena*

CODE OF REGULATIONS, TITLE 5

303 *Duty to remain at school*

COURT DECISIONS

*People v. Burton* (1971) 6 Cal. 3d 375

*In re Donaldson* (1969) 269 Cal. App. 2d 509

*Baines v. Brady* (1953) 122 Cal. App. 2d 957, 960

*In the matter of Paul P.*, 85 Daily Journal D.A.R. 2594

ATTORNEY GENERAL OPINIONS

54 *Ops. Cal. Atty. Gen.* 96 (1971)

34 *Ops. Cal. Atty. Gen.* 93 (1959)

32 *Ops. Cal. Atty. Gen.* 96 (1958)

**QUESTIONING AND APPREHENSION**

**Questioning on School Grounds**

The school/program site shall keep a record of any interviews of students by law officers on school premises. Such records shall include the date and time, name and identifying number of the officer, the agency employing the officer and his/her official capacity, the time when he/she arrived and left, the fact that the principal/program administrator or designee was or was not present during the interview, the reason for the questioning and/or release, and any other pertinent information.

**Apprehension**

Police officers, officers of the juvenile court, and other authorized law enforcement officials have an absolute right to enter a school/program site to take a student into custody or to make an arrest of a student.

If a minor student is removed from school into the custody of a peace officer, the principal/program administrator or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

The principal/program administrator or designee shall record the time(s) of contact or attempted contact with the parent/guardian.

If the student is suspected of being a victim of child abuse, the Tuolumne County Superintendent of Schools or designee shall give the telephone number and address of the student's parent/guardian to the law enforcement officer, and the officer then has the responsibility of immediately notifying the parent/guardian. (Education Code 48906)

*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

The County Superintendent or designee shall immediately be notified of the student's removal. This initial verbal notice will be followed by a written report by the principal/program administrator or designee and shall include the date and time of arrest, the identity, badge number and official capacity of the officer and the reason for release.

**SEARCH AND SEIZURE**

As necessary to protect the health, safety and welfare of students and staff, school officials may search students, their property and/or County Office property under their control, and may seize illegal, unsafe and prohibited items. The Tuolumne County Superintendent of Schools Office requires that discretion, good judgment and common sense be exercised in all cases of search and seizure.

**Individual Searches**

School officials may search individual students, their property and County Office property under their control, when there is a reasonable suspicion that the search will uncover evidence that the student is violating the law, County Office policy, administrative regulation, or other rules of the County Office or the school/program site.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two County Office employees.

The principal/program administrator or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

*(cf. 5145.11 - Questioning and Apprehension)*

**Student Lockers/Desks**

The principal/program administrator or designee may conduct a general inspection of school/program site properties that are within the control of students, such as desks, on a regular, announced basis, with students standing by their assigned desks. Any items contained in a desk shall be considered to be the property of the student to whom the desk was assigned.

Because desks are under the joint control of the student and the County Office, school officials shall have the right and ability to open and inspect any school/program site locker or desk without student permission or prior notice when they have reasonable suspicion that the search will uncover evidence of illegal possessions or activities or when odors, smoke, fire and/or other threats to health, welfare or safety emanate from the locker or desk.

**Use of Drug-Detection Dogs**

In an effort to keep the schools free of drugs, the County Office may use specially trained nonaggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or County Office policy. The dogs may sniff the air around lockers, desks, or vehicles on County Office property or at County Office-sponsored events as long as they are not allowed to sniff within the close proximity of any students.

**SEARCH AND SEIZURE (continued)**

*(cf. 5131.6 - Alcohol and Other Drugs)*

*Legal Reference:*

EDUCATION CODE

32280-32288 *School safety plans*

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

49050-49051 *Searches by school employees*

49330-49334 *Injurious objects*

PENAL CODE

626.9 *Firearms*

626.10 *Dirks, daggers, knives or razor; bringing into or possession of upon or within public school ground; exception*

COURT DECISIONS

*B.C. v. Plumas*, (9th Cir. 1999) 192 F.3d 1260

*O'Connor v. Ortega*, (1987) 107 S.Ct. 1492

*New Jersey v. T.L.O.*, (1985) 469 U.S. 325

*Horton v. Goose Creek Independent School District*, (5th Cir. 1982) 690 F.2d 470

*Zamora v. Pomeroy*, (10th Cir. 1981) 639 F.2d 662

ATTORNEY GENERAL OPINIONS

83 *Ops.Cal.Atty.Gen.* 257 (2001)

75 *Ops.Cal.Atty.Gen.* 155 (1992)

*Management Resources:*

WEB SITES

California Attorney General's Office: <http://caag.state.ca.us>

CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety>

**SEARCH AND SEIZURE**

**Use of Drug-Detection Dogs**

Drug-detection dogs shall not be used in rooms occupied by persons except for demonstration purposes, with the handler present. When used for demonstration purposes, the dog shall be separated from the students and not allowed to sniff any individual.

Only the dog's official handler shall determine what constitutes an alert by the dog. If the dog alerts on a particular item or place, the student having the use of that item or place, or responsibility for it, shall be called to witness the search. If a dog alerts on a locked vehicle, the student who brought the vehicle onto Tuolumne County Superintendent of Schools Office property shall be asked to unlock it for inspection.

*(cf. 5131.6 - Alcohol and Other Drugs)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

**FREEDOM OF SPEECH/EXPRESSION**

The Tuolumne County Superintendent of Schools Office believes that free inquiry and exchange of ideas are essential parts of a democratic education. The County Board respects students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

*(cf. 6142.3 - Civic Education)*

*(cf. 6144 - Controversial Issues)*

**On-Campus Expression**

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on County Office Internet web sites and online media shall generally be afforded the same protections as in print media.

*(cf. 1113 - District and School Web Sites)*

*(cf. 6163.4 - Student Use of Technology)*

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950, and other applicable state and federal laws.

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous, or slanderous. Students also are prohibited from making any expressions that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

*(cf. 5145.7 - Sexual Harassment)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

The use of "fighting words" or epithets is prohibited in those instances where the speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of the material violates the law. (Education Code 48907)

The Tuolumne County Superintendent of Schools or designee shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats, or intimidation unless constitutionally protected. (Education Code 48950)

## **FREEDOM OF SPEECH/EXPRESSION (continued)**

(cf. 5137 - Positive School Climate)

(cf. 5144 - Discipline)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

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

### **Off-Campus Expression**

A student shall be subject to discipline for off-campus expression, including expression on off-campus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program. The County Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

(cf. 5131 - Conduct)

#### *Legal Reference:*

EDUCATION CODE

48907 *Exercise of free expression; rules and regulations*

48950 *Speech and other communication*

51520 *Prohibited solicitations on school premises*

UNITED STATES CODE, TITLE 20

4071-4074 *Equal Access Act*

CALIFORNIA CONSTITUTION

Article 1, Section 2 *Freedom of speech and expression*

U.S. CONSTITUTION

Amendment 1 *Freedom of speech and expression*

COURT DECISIONS

*Smith v. Novato Unified School District*, (2007) 150 Cal.App.4th 1439

*Lavine v. Blaine School District*, (2001) 257 F.3d 981

*Emmett v. Kirkland School District No. 415*, (2000) 92 F.Supp. 2d 1088

*J.S. v. Bethlehem Area School District*, (2000) 757 A.2d 412 (Pa. Commw. 2000)

*Beussink v. Woodland R-IV School District*, (1998) 30 F.Supp. 2d 1175

*Muller v. Jefferson Lighthouse School*, (1996) 98 F.3d 1530

*Lovell v. Poway Unified School District*, (1996) 90 F.3d 367

*Hazelwood School District v. Kuhlmeier*, (1988) 108 S. Ct. 562

*Leeb v. DeLong*, (1988) 198 Cal.App.3d 47

*Bethel School District No. 403 v. Fraser*, (1986) 478 U.S. 675

*Bright v. Los Angeles Unified School District*, (1976) 18 Cal. 3d 350

*Tinker v. Des Moines Independent Community School District*, (1969) 393 U.S. 503

#### *Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

Limitations on Student Expression in School-Sponsored Publications, March 4, 1988

WEB SITES

CSBA: <http://www.csba.org>

California Department of Education: <http://www.cde.ca.gov>

## **FREEDOM OF SPEECH/EXPRESSION**

### **School-Sponsored Publications**

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

*Official school publications* includes material produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each principal shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the principal considers material submitted for publication to violate Education Code 48907, he/she shall notify the student, without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the principal's determination from the Superintendent or designee. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

To the extent that the principal or designee believes that the school and district should be disassociated from a particular idea or opinion, the principal may require student articles to include disclaimers.

### **Distribution of Printed Materials and Petitions by Students**

The principal or designee may provide bulletin boards on which students and student organizations may post materials of general interest. Students also may post or distribute handbills, leaflets, and other printed material, whether produced within or outside of the school. Students may collect signatures on petitions concerning school or nonschool issues.

*(cf. 1325 - Advertising and Promotion)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

### **Printed materials or petitions may be distributed only:**

1. Before or after school or during lunch time

2. In locations that do not obstruct the normal flow of traffic within the school or at entrances

No student shall use coercion to induce any other student or person to accept printed matter or to sign a petition. No funds shall be collected for any material distributed.

*(cf. 5131 - Conduct)*

### **Clothing, Buttons, and Badges**

Buttons, badges, armbands, and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board policy. No employee shall interfere with this practice on the grounds that the message may be controversial or unpopular with students or faculty.

*(cf. 5131.4 - Student Disturbances)*

*(cf. 5132 - Dress and Grooming)*

*(cf. 5136 - Gangs)*

*(cf. 5144 - Discipline)*

**NONDISCRIMINATION/HARASSMENT**

Tuolumne County Superintendent of Schools Office programs and activities shall be free from discrimination, including harassment, with respect to a student's actual or perceived sex, gender, ethnic group identification, race, national origin, religion, color, physical or mental disability, age or sexual orientation.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

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

The County Office shall ensure equal opportunities for all students in admission and access to the educational program, guidance and counseling programs, athletic programs, testing procedures, and other activities. School staff and volunteers shall carefully guard against segregation, bias and stereotyping in instruction, guidance and supervision. The County Office may provide male and female students with sexual health and HIV/AIDS prevention classes in order to protect student modesty.

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6164.2 - Guidance/Counseling Services)*

The County Office prohibits intimidation or harassment of any student by any employee, student or other person in the County Office. Staff shall be alert and immediately responsive to student conduct which may interfere with another student's ability to participate in or benefit from school services, activities or privileges.

*(cf. 5145.2 - Freedom of Speech/Expression)*

*(cf. 5145.7 - Sexual Harassment)*

Students who harass other students shall be subject to appropriate discipline, up to and including counseling, suspension and/or expulsion. An employee who permits or engages in harassment may be subject to disciplinary action, up to and including dismissal.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

*(cf. 5131 - Conduct)*

*(cf. 5144 - Discipline)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

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

**NONDISCRIMINATION/HARASSMENT** (continued)

The County Office hereby designates the following position(s) as Coordinator(s) for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the County Office's nondiscrimination policies:

Brenda Chapman, Assistant Superintendent/Student Programs and Instruction  
Bill Schauderman, Director/Student Services  
175 S. Fairview Lane  
Sonora, CA 95370  
209-536-2017  
209-536-2044

*(cf. 1312.1 - Complaints Concerning District Employees)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

Any student who feels that he/she is being harassed should immediately contact the Coordinator for Nondiscrimination, the principal/program administrator or any other staff member. Any student who observes an incident of harassment should report the harassment to a school/program site employee, whether or not the victim files a complaint.

Employees who become aware of an act of harassment shall immediately report the incident to the Coordinator for Nondiscrimination. Upon receiving a complaint of discrimination or harassment, the Coordinator shall immediately investigate the complaint in accordance with site-level grievance procedures specified in AR 5145.7 - Sexual Harassment. Where the Coordinator finds that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim.

The Coordinator shall also advise the victim of any other remedies that may be available. The Coordinator shall file a report with the Tuolumne County Superintendent of Schools or designee and refer the matter to law enforcement where required.

*Legal Reference: (see next page)*

**NONDISCRIMINATION/HARASSMENT (continued)**

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex, especially:*  
221.5 *Prohibited sex discrimination*  
221.7 *School-sponsored athletic programs; prohibited sex discrimination*  
48900.3 *Suspension or expulsion for act of hate violence*  
48900.4 *Suspension or expulsion for threats or harassment*  
48904 *Liability of parent/guardian for willful student misconduct*  
48907 *Student exercise of free expression*  
48950 *Freedom of speech*  
49020-49023 *Athletic programs*  
51006-51007 *Equitable access to technological education programs*  
51500 *Prohibited instruction or activity*  
51501 *Prohibited means of instruction*  
60044 *Prohibited instructional materials*

CIVIL CODE

1714.1 *Liability of parents/guardians for willful misconduct of minor*

CODE OF REGULATIONS, TITLE 5

4621 *District policies and procedures*  
4622 *Notice requirements*

PENAL CODE

422.55 *Interference with constitutional right or privilege*

UNITED STATES CODE, TITLE 42

2000d-2000e-17 *Title VI & VII Civil Rights Act of 1964 as amended*  
2000h-2-2000h-6 *Title IX, 1972 Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 *Prohibition of discrimination on basis of race, color or national origin*  
104.7 *Designation of responsible employee for Section 504*  
106.8 *Designation of responsible employee for Title IX*  
106.9 *Notification of nondiscrimination on basis of sex*

COURT DECISIONS

*Flores v. Morgan Hill Unified School District*, (2003) 324 F.3d 1130

*Management Resources:*

OFFICE OF CIVIL RIGHTS PUBLICATIONS

*Notice of Non-Discrimination*, January, 1999

*Racial Incidents and Harassment Against Students at Educational Institutions: Investigative Guidance*,  
59 FR 47, March, 1994

WEB SITES

U.S. Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR>  
California Department of Education: <http://www.cde.ca.gov>

**PARENTAL NOTIFICATIONS**

The Tuolumne County Superintendent of Schools Office recognizes that notifications are essential to effective communication between the school and the home. The Tuolumne County Superintendent of Schools or designee shall send students and parents/guardians all notifications required by law, including notifications about their legal rights, and any other notifications he/she believes will promote parental understanding and involvement.

*(cf. 5020 - Parent Rights and Responsibilities)*  
*(cf. 5022 - Student and Family Privacy Rights)*  
*(cf. 6020 - Parent Involvement)*

The County Superintendent or designee shall ensure that notifications which must be sent at the beginning of each academic year include a request that the parent/guardian sign the notice and return it to the school. (Education Code 48981, 48982)

Notifications to parents/guardians shall be written both in English and in the family's primary language when so required by law. Whenever an employee learns that a student's parent/guardian is for any reason unable to understand the County Office's printed notifications, the principal/program administrator or designee shall work with the parent/guardian to establish other appropriate means of communication.

*(cf. 6174 - Education for English Language Learners)*

*Legal Reference: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference:*

EDUCATION CODE

- 221.5 Prohibited sex discrimination*
- 231.5 Sexual harassment policy*
- 262.3 Appeals; information re: availability of civil remedies*
- 310 Structured English Immersion Program*
- 17288 Pupils: school buildings*
- 17612 Notification of pesticide use*
- 32255-32255.6 Right to refuse harmful or destructive use of animals*
- 32390 Fingerprint program; contracts; funding; consent of parent/guardian*
- 35178.4 Notice of accreditation status*
- 35183 School dress codes; uniforms*
- 35186 Complaints concerning deficiencies in instructional materials and facilities*
- 35256 School accountability report card*
- 35291 Rules*
- 37616 Consultation*
- 39831.5 School bus rider rules and information*
- 44808.5 Permission to leave school grounds*
- 46010.1 Notice re: excuse to obtain confidential medical services*
- 46014 Regulations regarding absences for religious purposes*
- 46600-46611 Interdistrict attendance agreements especially:*
  - 46601 Failure to approve interdistrict attendance*
- 48000 Minimum age of admission*
- 48070.5 Promotion or retention of students*
- 48205 Absence for personal reasons*
- 48206.3 Pupils with temporary disabilities; individual instruction; definitions*
- 48207 Pupils with temporary disabilities in hospitals outside of school district*
- 48208 Students with temporary disabilities in qualifying hospitals*
- 48216 Immunization*
  - 48260.5 Notice to parent re truancy*
- 48263 Referral to SARB or probation department*
- 48432.5 Involuntary transfers of pupils*
- 48904 Liability of parent/guardian for willful pupil misconduct*
  - 48904.3 Withholding grades, diplomas, or transcripts*
- 48906 Notification of release of pupil to peace officer*
- 48911 Notification in case of suspension*
- 48912 Closed sessions; consideration of suspension*
  - 48915.1 Expelled individuals: enrollment in another district*
- 48916 Readmission procedures*
- 48918 Rules governing expulsion procedures*
- 48980 Required notification at beginning of term*
  - 48980.3 Notification of pesticide use*
- 48981 Time and means of notification*

*Legal Reference continued: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference: (continued)*

EDUCATION CODE (continued)

- 48982 *Signature; return to school; effect of signature*
  - 48983 *Contents of notice*
  - 48984 *Activities prohibited unless notice given*
  - 48985 *Notices to parents in language other than English*
  - 48987 *Child abuse information*
  - 49063 *Notification of parents of their rights*
  - 49067 *Regulations regarding pupil's achievement*
  - 49068 *Transfer of permanent enrollment and scholarship record*
  - 49069 *Absolute right to access*
  - 49070 *Challenging content of records*
  - 49073 *Release of directory information*
  - 49076 *Access to student records*
  - 49077 *Access to information concerning a student in compliance with court order*
  - 49091.14 *Prospectus*
  - 49302 *Parental consent*
  - 49332 *Notifications of retention of object by school personnel; release*
  - 49403 *Cooperation in control of communicable disease and immunization*
  - 49423 *Administration of prescribed medication for pupil*
  - 49451 *Physical examinations: parent's refusal to consent*
  - 49452.5 *Screening for scoliosis*
  - 49456 *Report to parent*
  - 49472 *Medical and hospital services for pupils*
  - 49480 *Continuing medication regimen for nonepisodic conditions*
  - 49510-49520 *Duffy-Moscone Family Nutrition Education and Services Act of 1970*
  - 51229 *Course of study for grades 7-12*
  - 51513 *Personal beliefs*
  - 51938 *Right of parent/guardian notice HIV/AIDS and sexual health instruction*
  - 52164.1 *Census-taking methods; determination of primary language; assessment of language skills*
  - 52164.3 *Notice of reassessment of language skills*
  - 52173 *Consultation with parents or guardians; notice to parents or guardians; withdrawal of pupil*
  - 52244 *Advanced Placement Program*
  - 54444.2 *Migrant education programs; parent involvement*
  - 56301 *Child-find system; policies re: written notification rights*
  - 56321 *Special education: proposed assessment plan*
  - 56329 *Written notice of right to findings; independent assessment*
  - 56341 *Individualized education program team*
  - 56341.5 *Individualized education program team meetings*
  - 56343.5 *IEP meetings*
  - 56346 *Parental notice and consent to special education program*
  - 58501 *Alternative schools: notice required prior to establishment*
  - 60641 *Standardized Testing and Reporting Program*
  - 60850 *High School Exit Examination*
  - 66204 *Certification of high school courses as meeting university admission criteria*
- HEALTH AND SAFETY CODE
- 1596.857 *Right to enter child care facility*
  - 120365 *Immunizations*

*Legal Reference continued: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference: (continued)*

HEALTH AND SAFETY CODE (continued)

120370 *Immunizations*

120375 *Immunizations*

120440 *Sharing immunization information*

124085 *Certificate of receipt; health screening and evaluation services; waiver by parent/guardian*

124100 *School districts and private schools; information to parents*

PENAL CODE

627.5 *Hearing request following denial or revocation of registration*

WELFARE AND INSTITUTIONS CODE

18976.5 *Parental notice; right of refusal to participate*

CODE OF REGULATIONS, TITLE 5

863 *Standardized Testing and Reporting Program*

3052 *Behavioral intervention*

3831 *General standards (Gifted and Talented Program)*

4622 *Notice requirements and recipients*

4631 *Responsibilities of the local agency*

11303 *Reclassification of English language learners*

11309 *Parental exception waivers*

11523 *Notice of proficiency examinations*

18066 *Policies and procedures absences for child care*

UNITED STATES CODE, TITLE 20

1232g *Family Educational and Privacy Rights Act*

1415 *Procedural safeguards*

1681-1688 *Title IX, discrimination based on sex or blindness*

6311 *State plans*

6312 *Local education agency plans*

6316 *Academic assessment and local education agency school improvement*

6318 *Parental involvement*

7908 *Armed forces recruiter access to students*

UNITED STATES CODE, TITLE 42

2000d -2000d-7, *Title VI, Civil Rights Act of 1964*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.7 *Student records, annual notification*

99.34 *Student records, disclosure to other educational agencies*

104.36 *Procedural safeguards*

106.9 *Dissemination of policy, nondiscrimination on basis of sex*

300.345 *Parent participation*

300.502 *Independent educational evaluation*

300.503 *Prior written notice*

300.505 *Parental consent*

300.507 *Parent notice due process hearing*

300.523 *Manifestation determination review*

CODE OF FEDERAL REGULATIONS, TITLE 40

763.93 *Management plans*

**Students**

E 5145.6(a)

**PARENTAL NOTIFICATIONS**

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
Beginning of each school year	32255-32255.6, 48980	BP 5145.8 AR 5145.8	Right to refrain from harmful or destructive use of animals
Annually by February 1	35256	BP 0510	School Accountability Report Card provided
Beginning of each school year	35291, 48980	AR 5144 AR 5144.1	District and site discipline rules
Beginning of each school year if high school open campus	44808.5, 48980	BP 5112.5	Open campus
Beginning of each school year if Board has adopted resolution allowing such absence	46014, 48980	BP 5113 AR 5113	Absence for religious purposes
Beginning of each school year	48205, 48980	BP 5113 AR 5113	Absence for justifiable personal reasons
Beginning of each school year	48205, 48980	AR 6154	Grade/credit cannot be reduced due to excused absence if work or test has been completed
Beginning of each school year	48206.3, 48207, 48208, 48980	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48216, 48980	BP 5141.31 AR 5141.31	Immunizations

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b> (continued)			
Beginning of each school year	48980	AR 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency
Beginning of each school year	48980, 231.5	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 52244	AR 6141.5	Availability of state funds to cover costs of advanced placement exam fees
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year	49063, 49068, 49069; 20 USC 1232g; 34 CFR 99.7	BP 5125 AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine school official legitimate educational interest
Beginning of each school year	49063, 49070	AR 5125 AR 5125.3	Challenge, review and expunging of records
Beginning of each school year	49063, 49073	AR 5125.1	Release of directory information
Beginning of each school year	49063, 49091.14	AR 5020 AR 5125	Availability of course prospectus
Beginning of each school year	49423, 49480, 48980	AR 5141.21	Administration of prescribed medication
Beginning of each school year	49451, 48980	BP 5141.3	Refusal to consent to physical examination
Beginning of each school year	49472, 48980	AR 5143	Availability of insurance

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. <u>Annually</u></b> (continued)			
Beginning of each school year	49510-49520, 48980	BP 3553	Free and reduced price meals
Annually	56301	BP 6164.4	Rights of all parents related to special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501	BP 6181	Alternative schools
Beginning of each school year	20 USC 1681-1688; 42 USC 2000d-2000d-7; 34 CFR 106.9	BP 0410 BP 6178	Nondiscrimination on basis of sex, disability, ethnicity or lack of English skills
Annually	5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies, and identity of coordinator
Beginning of each school year	20 USC 1232h	AR 5022	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing
For districts receiving Title I funds, beginning of each school year	20 USC 6311	AR 4112.24 AR 4222	Right to request information re: professional qualifications of their child's teacher and paraprofessional
Annually to parent, teacher and employee organizations; in absence of organizations, to individuals	40 CFR 763.93	AR 3514	Availability of complete, updated management plan for asbestos-containing material in school buildings

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b>			
At least once before counseling in grades 7-12	221.5, 48980	AR 6164.2	Course selection and career counseling
At beginning of each school year if student has been placed in structured English immersion program	310; 5 CCR 11309	AR 6174	Placement of child in program and opportunity to apply for parental exception waiver
Before high school student attends specialized secondary program on a university campus	17288	None	University campus buildings may not meet Education Code requirements for structural safety
To members of athletic teams	32221.5	AR 5143	Offer of insurance, no-cost and low-cost program options
Before presenting a course using live or dead animals or animal parts	32255-32255.6	BP 5145.8	Right to refrain from harmful or destructive use of animals
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	BP 5142.1	Fingerprinting program
Beginning of each term for students who have not passed the exit exam by the end of grade 12 complaint	37254	AR 6179	Availability of intensive instruction and services for two consecutive academic years and right to file
Upon registration, if K-6 students have not previously been transported	39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year in grades 7-12	46010.1	BP 5113	Absence for confidential medical services

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b> (continued)			
Upon admission to school	48216, 49403; Health & Safety Code 120365, 120370, 120375	AR 5141.31	Immunizations
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry
Beginning of each school year in grades 9-12 and when high school student transfers into the district	48980, 60850	AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
When in kindergarten or 1st grade if not previously enrolled in public school health,	49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of teeth  agency contact, privacy rights
Beginning of each school year for students in grades 9-12	51229, 48980	BP 6143	Explanation of college admission requirements, list of UC and CSU web sites that list certified courses, description of career technical education and CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12	51938, 48980	AR 6142.1	Explanation of sex and HIV/AIDS instruction; right to view A/V materials, who's teaching, request specific Education Code sections, right to excuse
Upon assessment and reassessment of English proficiency and enrollment in program of education for English language learners	52164.1, 52164.3, 52173; 5 CCR 11303	AR 6174	Program of education for English language learners

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. <u>At Specific Times During the Student's Academic Career</u></b> (continued)			
Within 20 working days of receiving results of standardized achievement tests	60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
Annually to each high school student	66204	BP 6143	Copy of list of courses offered that are certified by UC as meeting admission criteria
When child is enrolled in kindergarten	Health & Safety Code 124100	AR 5141.32	Health screening examination
Prior to student participation in gifted and talented program	5 CCR 3831	AR 6172	Gifted and talented student program
Within 30 calendar days of receipt of CELDT results	5 CCR 11511.5	AR 6174	CELDT test results
To students in grades 11 and 12, early enough to enable registration for current fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
For districts receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose another program
<b>III. <u>When Special Circumstances Occur</u></b>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
At least six months before implementing a schoolwide uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a continuous school program	37616	BP 6117	Continuous school program
When interdistrict transfer is requested and not approved or denied within 30 days	46601	AR 5117	Appeal process
When student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When a student is classified a truant	48260.5	AR 5113	Parental obligation
When a truant is referred to a SARB or probation department	48263	AR 5113	Name and address of SARB or probation department and reason for referral
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to require meeting prior to involuntary transfer to continuation school
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
Before holding a closed session re: suspension	48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	48916	AR 5144.1	Description of readmission procedures
10 calendar days before expulsion hearing	48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	48980	BP 6111	When minimum days scheduled after beginning of the school year
When parents request guidelines for filing complaint of child abuse at a school site	48987	BP 1312.1	Guidelines for filing complaint of child abuse at a school site with local child protective agencies
When student in danger of failing a course	49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	49068	AR 5125	Right to receive copy of student's record and to challenge its content

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
Within 24 hours of release of information to a judge or probation officer	49076	AR 5125	Release of student record information to a judge or probation officer for conducting a truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	49452.5	BP 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	BP 5141.3	Vision or hearing test
Before any test questioning personal beliefs	51513	AR 5022	Permission for test, survey questioning personal beliefs
Within 14 days of instruction if arrangement made for guest speaker after beginning of school year	51938	BP 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health & Safety Code 1596.857	AR 5148	Parent right to enter facility
When sharing student immunization information with an immunization system	Health & Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When providing written decision in response to a complaint re: discrimination, special education, or noncompliance with law regulating educational programs	5 CCR 4631	AR 1312.3	Appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
For districts receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"	20 USC 6311	AR 4112.24	Timely notice to parent of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress	20 USC 6312	AR 0520.2	Notice of failure to parents of English language learners
When school identified for program improvement or corrective action	20 USC 6316	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services
For districts with schools that have been identified for program improvement or corrective action, annually	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
When district identified for program improvement	20 USC 6316	AR 0520.3	Explanation status, reasons for identification, how parents can participate in upgrading district

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. <u>When Special Circumstances Occur</u></b> (continued)			
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
For districts with secondary students receiving Title I funds	20 USC 7908	AR 5125.1	Notice that parents may request district to not release name, address, phone number of child to military recruiters without prior written consent
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
<b>IV. <u>Special Education Notices</u></b>			
Prior to conducting initial evaluation	56301, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when district intending to record	56341.1	AR 6159	Intention to tape record IEP meeting
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request
For student receiving exit exam waiver, prior to receipt of diploma	60852.4	AR 6162.52	Right to FAPE
Before functional behavioral assessment begins	5 CCR 3052	AR 6159.4	Notification and consent
Before modification of behavioral intervention plan	5 CCR 3052	AR 6159.4	Need for modification, right to question modification

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. <u>Special Education Notices</u></b> (continued)			
Within one school day of emergency intervention or serious property damage	5 CCR 3052	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE	20 USC 1415(c); 34 CFR 300.503	AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d); 34 CFR 300.503	AR 6159.1	Prior written notice and procedural safeguards notice
Registration of complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing proposed	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Child's name, address, school, description of problem, resolution
<b>V. <u>Classroom Notices</u></b>			
In each classroom in each school	35186 sufficiency	AR/E 1312.4	Complaint rights re:  instructional materials, teacher vacancy and misassignment, maintenance of facilities, and, for classrooms with grades 10-12, right of students who did not pass the exit exam to receive intensive instruction after completion of grade 12

**SEXUAL HARASSMENT**

The Tuolumne County Superintendent of Schools Office is committed to maintaining an educational environment that is free from harassment and discrimination. The County Office prohibits sexual harassment of students by other students, employees, or other persons, at school or at school-sponsored or school-related activities. The County Office also prohibits retaliatory behavior or action against persons who complain, testify, assist, or otherwise participate in district complaint processes.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*  
*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

**Instruction/Information**

The Tuolumne County Superintendent of Schools Office or designee shall ensure that all County Office students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about the district's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made

*(cf. 5131.5 - Vandalism, Theft and Graffiti)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*  
*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

**Complaint Process**

Any student who feels that he/she is being or has been sexually harassed by a school employee, another student, or a non-employee on school grounds or at a school-related activity (e.g., a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*

## **SEXUAL HARASSMENT (continued)**

The Tuolumne County Superintendent of Schools Office or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the County Schools Office or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

### **Disciplinary Actions**

Any student who engages in sexual harassment of anyone at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

*(cf. 5131 - Conduct)*

*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

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

### **Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*(cf. 5125 - Student Records)*

The Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable the district to monitor, address, and prevent repetitive harassing behavior in the schools.

### **Legal Reference:**

#### **EDUCATION CODE**

*200-262.4 Prohibition of discrimination on the basis of sex*

*48900 Grounds for suspension or expulsion*

*48900.2 Additional grounds for suspension or expulsion; sexual harassment*

*48904 Liability of parent/guardian for willful student misconduct*

*48980 Notice at beginning of term*

#### **CIVIL CODE**

*51.9 Liability for sexual harassment; business, service and professional relationships*

*1714.1 Liability of parents/guardians for willful misconduct of minor*

#### **GOVERNMENT CODE**

*12950.1 Sexual harassment training*

#### **CODE OF REGULATIONS, TITLE 5**

*4600-4687 Uniform Complaint Procedures*

*4900-4965 Nondiscrimination in elementary and secondary education programs*

#### **UNITED STATES CODE, TITLE 20**

**SEXUAL HARASSMENT** (continued)

*1681-1688 Title IX, discrimination*

*UNITED STATES CODE, TITLE 42*

*1983 Civil action for deprivation of rights*

*2000d-2000d-7 Title VI, Civil Rights Act of 1964*

*2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended*

*CODE OF FEDERAL REGULATIONS, TITLE 34*

*106.1-106.71 Nondiscrimination on the basis of sex in education programs*

*COURT DECISIONS*

*Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567*

*Flores v. Morgan Hill Unified School District, (2003, 9th Cir.) 324 F.3d 1130*

*Reese v. Jefferson School District, (2001, 9th Cir.) 208 F.3d 736*

*Davis v. Monroe County Board of Education, (1999) 526 U.S. 629*

*Gebser v. Lago Vista Independent School District, (1998) 524 U.S. 274*

*Oona by Kate S. v. McCaffrey, (1998, 9th Cir.) 143 F.3d 473*

*Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447*

*Management Resources:*

*OFFICE FOR CIVIL RIGHTS PUBLICATIONS*

*Sexual Harassment: It's Not Academic, September 2008*

*Revised Sexual Harassment Guidance, January 2001*

*WEB SITES*

*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/index.html>*

**SEXUAL HARASSMENT**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any County Office program or activity

Examples of types of conduct which are prohibited in the County Office programs and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects

## SEXUAL HARASSMENT

### School-Level Complaint Process/Grievance Procedure

1. *Notice and Receipt of Complaint:* Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to the principal/program administrator. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the principal/program administrator, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal/program administrator to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Superintendent or designee.

2. *Initiation of Investigation:* The principal/program administrator shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. The County Office shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the principal/program administrator receives an anonymous complaint or media report about alleged sexual harassment, he/she shall consider the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment in determining whether it is reasonable to pursue an investigation.

3. *Initial Interview with Student:* When a student or parent/guardian has complained or provided information about sexual harassment, the principal/program administrator shall describe the County Office's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit the County Office's ability to investigate.
4. *Investigation Process:* The Principal/program administrator shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The principal/program administrator shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Principal/program administrator may take other steps such

**SEXUAL HARASSMENT**

as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the principal/program administrator also may discuss the complaint with the Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and County Office legal counsel or the County Office's risk manager.

(cf. 5141.4 - Child Abuse Prevention and Reporting)

5. *Interim Measures:* The principal/program administrator shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. *Optional Mediation:* In cases of student-to-student harassment, when the student who complained and the alleged harasser so agree, the principal/program administrator may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.
7. *Factors in Reaching a Determination:* In reaching a decision about the complaint, the principal/program administrator may take into account:
  - a. Statements made by the persons identified above
  - b. The details and consistency of each person's account
  - c. Evidence of how the complaining student reacted to the incident
  - d. Evidence of any past instances of harassment by the alleged harasser
  - e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the principal/program administrator may take into consideration:

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct

## **SEXUAL HARASSMENT**

- c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
  - d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
  - e. The size of the school, location of the incidents, and context in which they occurred
  - f. Other incidents at the school involving different students
8. *Written Report on Findings and Follow-Up:* No more than 30 days after receiving the complaint, the Principal/program administrator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Principal/program administrator shall notify the student who complained and explain the reasons for the extension.

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If sexual harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the Superintendent or designee.

In addition, the principal/program administrator shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Principal/program administrator shall also make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

### **Enforcement of County Office Policy**

The Superintendent or designee shall take appropriate actions to reinforce the County Office's sexual harassment policy. As needed, these actions may include any of the following:

1. Removing vulgar or offending graffiti

*(cf. 5131.5 - Vandalism, Theft, and Graffiti)*

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

**SEXUAL HARASSMENT**

3. Disseminating and/or summarizing the County Office's policy and regulation regarding sexual harassment
4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*  
*(cf. 5125 - Student Records)*

5. Taking appropriate disciplinary action

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

*(cf. 4118 - Suspension/Disciplinary Action)*  
*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*  
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

**Notifications**

A copy of the County Office's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

*(cf. 5145.6 - Parental Notifications)*

2. Be displayed in a prominent location in the main administrative building or other area where notices of County Office rules, regulations, procedures, and standards of conduct are posted (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appear in any school or County Office publication that sets forth the school's or County Office's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

**REFUSAL TO HARM OR DESTROY ANIMALS**

The Tuolumne County Superintendent of Schools Office supports the right of students to refrain from participating in instruction which involves dissecting or otherwise harming or destroying animals when they have a moral objection to such activities.

Students shall not be discriminated against because of a decision to exercise this right. (Education Code 32255.1)

*(cf. 5145.2 - Freedom of Speech/Expression)*

After notifying the teacher of his/her objection pursuant to law and administrative regulations, the student shall be excused from the project and may be provided an appropriate alternative project. The County Office encourages staff, whenever possible, to provide an alternative project that teaches the same knowledge and skills as the original project. In any case, staff shall ensure the effective use of students' time by providing instructional activities relevant to the course of study.

*Legal Reference:*

EDUCATION CODE

32255-32255.6 *Student's right to refrain from harmful/destructive use of animals*

48980 *Parental notification at beginning of term*

48981-48984 *Method and content of notification; signature required*

**REFUSAL TO HARM OR DESTROY ANIMALS**

At the beginning of each academic year, the Tuolumne County Superintendent of Schools Office shall notify parents/guardians, in writing, of students' right to refrain from instruction involving harm or destruction of animals. (Education Code 48980, 48981)

*(cf. 5145.6 - Parental Notifications)*

In addition, each teacher of a course that uses live or dead animals or animal parts shall inform students of their right to refrain from the harmful or destructive use of animals. (Education Code 32255.4)

Students who wish to refrain from such instruction shall notify the teacher and shall provide a note from their parent/guardian substantiating the objection. (Education Code 32255.1)

A teacher's determination of whether a student may pursue an alternative project or be excused from the project shall not be arbitrary or capricious. (Education Code 32255.3)

If the teacher believes an adequate alternative project is possible, he/she may work with the student to develop and agree upon an alternative project which would provide the knowledge, information or experience required by the course of study. Alternative projects include but are not limited to the use of video tapes, models, films, books and computers. The alternative project shall involve time and effort comparable to that required by the original project. (Education Code 32255, 32255.1)

Students who participate in an alternative project shall pass all course examinations in order to receive course credit. Students may request an alternative test, however, if a regular examination requires the harmful or destructive use of animals. (Education Code 32255.1)

This right shall apply to all K-12 courses, except classes and activities conducted as part of agricultural education that provide instruction on the care, management and evaluation of domestic animals. (Education Code 32255.5, 32255.6)

**HATE-MOTIVATED BEHAVIOR**

The Tuolumne County Superintendent of Schools Office affirms the right of every student to be protected from hate-motivated behavior. It is the intent of the County Office to promote harmonious relationships that enable students to gain a true understanding of the civil rights and social responsibilities of people in our society. Behavior or statements that degrade an individual on the basis of his/her actual or perceived race, ethnicity, culture, heritage, gender, sexual orientation, physical/mental attributes, religious beliefs or practices shall not be tolerated.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 3515.4 - Recovery for Property Loss or Damage)*  
*(cf. 5131.5 - Vandalism, Theft and Graffiti)*  
*(cf. 5136 - Gangs)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*  
*(cf. 5145.7 - Sexual Harassment)*  
*(cf. 6141.6 - Multicultural Education)*

Any student who feels that he/she is a victim of hate-motivated behavior shall immediately contact the principal/program administrator or designee. If the student believes that the situation has not been remedied by the principal/program administrator or designee, he/she may file a complaint in accordance with County Office complaint procedures.

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*

Staff who receive notice of hate-motivated behavior or personally observe such behavior shall notify the principal/program administrator, Tuolumne County Superintendent of Schools or designee, and law enforcement, as appropriate. Students demonstrating hate-motivated behavior shall be subject to discipline in accordance with County Office policy and administrative regulation.

*(cf. 3515.3 - District Police/Security Department)*  
*(cf. 4158/4258/4358 - Employee Security)*  
*(cf. 5144 - Discipline)*  
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

In addition, the County Office shall provide counseling and appropriate sensitivity training and diversity education for students exhibiting hate-motivated behavior. The County Office shall also provide counseling, guidance and support, as necessary, to those students who are the victims of hate-motivated behavior.

*(cf. 6164.2 - Guidance/Counseling Services)*

**HATE-MOTIVATED BEHAVIOR** (continued)

The County Superintendent or designee shall ensure that staff receive appropriate training to recognize hate-motivated behavior and methods for handling such behavior in appropriate ways.

(cf. 4131 - Staff Development)  
(cf. 4231 - Staff Development)  
(cf. 4331 - Staff Development)

The County Office shall provide age-appropriate instruction to help promote understanding of and respect for human rights.

*Legal Reference:*

EDUCATION CODE

200-262.4 Prohibition of discrimination on the basis of sex

48900.3 Suspension for hate violence

PENAL CODE

186.21 Street terrorism; legislative findings and declarations

422.55-422.86 Hate Crimes

11410-11414 Terrorism

13023 Reports by law enforcement of crimes motivated by race, ethnicity, religion, sexual orientation or physical or mental disability

13519.6 Hate crimes, training courses and guidelines

UNITED STATES CODE, TITLE 18

245 Federally protected activities

*Management Resources:*

CSBA PUBLICATIONS

*Protecting Our Schools: Governing Board Strategies to Combat School Violence, 1995*

ALAMEDA OFFICE OF EDUCATION & CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Hate-Motivated Behavior in Schools: Response Strategies for School Boards, Administrators, Law Enforcement and Communities, 1997*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS & NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PUBLICATIONS

*Protecting Students from Harassment and Hate Crime: A Guide for Schools, 1999*

WEB SITES

CDE: <http://www.cde.ca.gov>

California Association of Human Relations Organizations: <http://www.cahro.org>

United States Department of Education, Office of Civil Rights: <http://www.ed.gov/offices/OCR/index.html>

**MARRIED/PREGNANT/PARENTING STUDENTS**

The Tuolumne County Superintendent of Schools Office recognizes that early marriage, pregnancy or parenting may disrupt a student’s education and increase the chance of a student dropping out of school. The County Office therefore desires to provide instruction and services designed to assist in pregnancy prevention. The County Office also desires to support male and female expectant and parenting students to attain strong academic and parenting skills and to promote the healthy development of their children.

- (cf. 5147 - Dropout Prevention)*
- (cf. 5149 - At-Risk Students)*
- (cf. 6011 - Academic Standards)*
- (cf. 6146.1 - High School Graduation Requirements)*
- (cf. 6146.11 - Alternative Credits Toward Graduation)*
- (cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*

Married, expectant and parenting students shall have the same educational and extracurricular opportunities as all students. Participation in special programs or school/program sites shall be voluntary.

- (cf. 0410 - Nondiscrimination in District Programs and Activities)*
- (cf. 5127 - Graduation Ceremonies and Activities)*
- (cf. 6145 - Extracurricular and Cocurricular Activities)*

For school-related purposes, married students under the age of 18 are emancipated minors and have all the rights and privileges of students who are 18, even if the marriage has been dissolved. (Family Code 7002)

**Expectant and Parenting Students**

The County Office is committed to providing to expectant and parenting students and their children a comprehensive, continuous, community-linked program that reflects the cultural and linguistic diversity of the community.

The Tuolumne County Superintendent of Schools or designee shall collaborate with other community agencies and organizations to ensure that appropriate educational and related support services are available to meet the needs of expectant and parenting students their children.

- (cf. 1020 - Youth Services)*
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

Expectant and parenting students retain the right to participate in any comprehensive school/program site or educational alternative programs. School placement and instructional strategies for participating students shall be based on the needs and learning styles of individual students. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the individual student and/or child. (Education Code 54745)

## **MARRIED/PREGNANT/PARENTING STUDENTS (continued)**

*(cf. 6158 - Independent Study)*  
*(cf. 6183 - Home and Hospital Instruction)*  
*(cf. 6184 - Continuation Education)*  
*(cf. 6200 - Adult Education)*

In addition to providing a quality education program for expectant and parenting students, the County Office's program shall provide parenting education and life skills instruction, special school nutrition supplements for pregnant and lactating students, and a child care and development program on or near the school/program site for the children of enrolled students. The County Office's program may provide other support services authorized by Education Code 54746 as necessary to meet the needs of students and their children. (Education Code 54745)

*(cf. 3550 - Food Service/Child Nutrition Program)*  
*(cf. 5141.6 - Student Health and Social Services)*  
*(cf. 5148 - Child Care and Development)*  
*(cf. 5148.1 - Child Care Services for Parenting Students)*  
*(cf. 6164.2 - Guidance/Counseling Services)*

### **Pregnancy Prevention Program**

The County Superintendent or designee shall ensure that age-appropriate, culturally sensitive and community-sensitive instruction and services are available to assist in the prevention of pregnancy among minors. The County Office's program shall be based on strategies that have proven effective in delaying the onset of sexual activity and reducing the incidence of pregnancy among school-age youth. Instruction shall be consistent with the County Office's family life/sex education curriculum.

*(cf. 5141.25 - Availability of Condoms)*  
*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*  
*(cf. 6142.8 - Comprehensive Health Education)*  
*(cf. 6143 - Courses of Study)*

*Legal Reference: (see next page)*

**MARRIED/PREGNANT/PARENTING STUDENTS** (continued)

*Legal Reference:*

EDUCATION CODE

2551.3 *Determination of state aid for pregnant minors program*  
17293 *School facilities for pregnant/parenting teen programs*  
48220 *Compulsory education requirement*  
48410 *Persons exempted from continuation classes*  
49553 *Nutrition supplements for pregnant/lactating students*  
49558 *Confidentiality of applications and records for free or reduced price meals*  
51220.5 *Parenting skills and education*  
51745 *Independent study*  
52610.5 *Enrollment of pregnant and parenting students in adult education*  
54740-54749.5 *California School Age Families Education Program (Cal-SAFE)*

FAMILY CODE

7002 *Description of emancipated minor*  
7050 *Purposes for which emancipated minor considered an adult*

HEALTH AND SAFETY CODE

124175-124200 *Adolescent and Family Life Act*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.40 *Marital or parental status*

*Management Resources:*

CDE PUBLICATIONS

*Pregnant and Parenting Students: A Report to the Legislature, April 1996*

SBE POLICIES

*Policy statement on adolescent pregnancy and parenting, July 9, 1993*

WEB SITES

CDE: <http://www.cde.ca.gov>

California Department of Health Services: <http://www.dhs.ca.gov>

Department of Social Services: <http://www.dss.cahswnet.gov>

**MARRIED/PREGNANT/PARENTING STUDENTS**

The Tuolumne County Superintendent of Schools or designee may grant a student a leave of absence due to pregnancy, childbirth or abortion for as long as it is deemed medically necessary. At the conclusion of the leave, the student shall be reinstated to the status she held when the leave began. (34 CFR 106.40)

*(cf. 5112.3 - Student Leave of Absence)*

A pregnant or parenting student also may request exemption from attendance because of a physical or mental condition or because of personal services that must be rendered to a dependent. (Education Code 48410)

*(cf. 5112.1 - Exemptions from Attendance)*

**Cal-SAFE Program**

A male or female student shall be eligible to enroll in the County Office's California School Age Families Education (Cal-SAFE) program if he/she: (Education Code 54747, 56026)

1. Is an expectant parent, custodial parent, or noncustodial parent taking an active role in the care and supervision of the child
2. Has not earned a high school diploma or its equivalent
3. Meets one of the following additional conditions:
  - a. Is age 18 years of age or younger.
  - b. Is age 19 and has been continuously enrolled in the program since before his/her 19th birthday. Such a student may be enrolled in the program for one additional semester.
  - c. The student is below age 22 and has an active individualized education plan.

*(cf. 6159 - Individualized Education Program)*

Students shall be enrolled in the program on an open-entry and open-exit basis. (Education Code 54745)

A student shall not be denied initial or continuous enrollment because of having had multiple pregnancies, more than one child, or a change in eligibility status from expectant to parenting. (Education Code 54747)

No fees shall be charged to students or their families for services provided through the County Office's Cal-SAFE program. (Education Code 54745)

**MARRIED/PREGNANT/PARENTING STUDENTS** (continued)

*(cf. 3260 - Fees and Charges)*

The County Superintendent or designee shall complete an intake procedure regarding each student upon entry into the program, and periodically thereafter as necessary, to determine appropriate levels and types of services to be provided. (Education Code 54746)

The County Superintendent or designee shall provide staff development and conduct community outreach in order to establish a positive learning environment and supportive school policies. (Education Code 54745)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The County Superintendent or designee shall participate in the development of the county service coordination plan for providing educational and related support services to expectant and parenting teens and their children. He/she also shall participate in data collection and evaluation of the program. (Education Code 54744, 54745)

*(cf. 5148.1 - Child Care Services for Parenting Students)*

*(cf. 6190 - Evaluation of the Instructional Program)*

*(cf. 9000 - Role of the Board)*

**CHILD CARE AND DEVELOPMENT**

The Tuolumne County Superintendent of Schools Office desires to provide child care and development services which meet the developmental needs of children and to provide an opportunity for parenting students to receive assistance while continuing their education.

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 5148.1 - Child Care Services for Parenting Students)*

*(cf. 6300 - Preschool/Early Childhood Education)*

The Tuolumne County Superintendent of Schools or designee shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and inform parenting students about child care options.

*(cf. 1020 - Youth Services)*

*(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*

*(cf. 1700 - Relations Between Private Industry and the Schools)*

*Legal Reference: (see next page)*

**CHILD CARE AND DEVELOPMENT** (continued)*Legal Reference:*EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, including:*  
 8200-8209 *General provisions for child care and development services*  
 8210-8216 *Resource and referral program*  
 8220-8226 *Alternative payment program*  
 8228 *Child care voucher for parents deployed to Iraq*  
 8230-8233 *Migrant child care and development program*  
 8235-8237 *State preschool program*  
 8240-8244 *General child care programs*  
 8250-8252 *Programs for children with special needs*  
 8263 *Eligibility and priorities for subsidized child development services*  
 8340-8346 *Individualized county child care subsidy plan, San Mateo County*  
 8350-8359.1 *Programs for Cal WORKs recipients*  
 8360-8370 *Personnel qualifications*  
 8400-8409 *Contracts*  
 8460-8480 *School-age community child care services*  
 8482-8484.6 *After-school education and safety program*  
 8484.7-8484.8 *21st Century community learning centers*  
 8485-8488 *Child supervision programs*  
 8488.5-8489.9 *Six By Six before- and after-school program*  
 8493-8498 *Facilities*  
 8499-8499.7 *Local planning councils*  
 8499.10 *Head Start*  
 17264 *New construction; accommodation of before- and after-school programs*  
 49540-49546 *Child care food program*  
 49570 *National School Lunch program*  
 54740-54749.5 *Cal-SAFE program for pregnant/parenting students and their children*  
 56244 *Staff development funding*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*  
 1596.90-1597.21 *Day care centers*  
 120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

18000-18122 *General provisions, general child care programs*  
 18130-18136 *State preschool programs*  
 18180-18192 *Federal and state migrant programs*  
 18200-18207 *School-age community child care services program*  
 18210-18213 *Severely handicapped program*  
 18220-18231 *Alternative payment program*  
 18240-18248 *Resource and referral program*  
 18270-18281 *Program quality, accountability*  
 18290-18292 *Staffing ratios*  
 18295 *Waiver of qualifications for site supervisor*  
 18300-18308 *Appeals and dispute resolution*  
 18400-18405 *CalWORKS child care services*

## **CHILD CARE AND DEVELOPMENT (continued)**

### *Legal Reference: (continued)*

#### CODE OF REGULATIONS, TITLE 22

101151-101239.2 *General requirements, licensed child care centers, including:*

101151-101163 *Licensing and application procedures*

101212-101231 *Continuing requirements*

101237-101239.2 *Facilities and equipment*

#### UNITED STATES CODE, TITLE 42

1751-1769 *School lunch programs*

9831-9852 *Head Start programs*

9858-9858q *Child care and development block grant*

#### CODE OF FEDERAL REGULATIONS, TITLE 7

210.1-210.31 *National School Lunch program*

#### CODE OF FEDERAL REGULATIONS, TITLE 45

98.2-98.93 *Child care and development fund*

#### COURT DECISIONS

*CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services, (2001) 91 Cal.App.4<sup>th</sup> 892*

### *Management Resources:*

#### CSBA PUBLICATIONS

*Preschool for All: Resource and Policy Guide, 2005*

#### CDE PUBLICATIONS

*Program Quality Standards and Standards Based on Exemplary Practice for Center-Based Programs and Family Child Care Home Networks, October 2004*

*Prekindergarten Learning Development Guidelines, 2000*

*First Class: A Guide for Early Primary Education, 1999*

#### CDE MANAGEMENT BULLETINS

01-06 *The Desired Results for Children and Families System, May 31, 2001*

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*21st Century Community Learning Centers: Providing Quality Afterschool Learning Opportunities for America's Families, September 2000*

#### U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Good Start, Grow Smart, April 2002*

#### WEB SITES

CSBA: <http://www.csba.org>

California Association for the Education of Young Children: <http://www.caeyc.org>

California Department of Education, Child Development: <http://www.cde.ca.gov/sp/cd>

California Department of Social Services: <http://www.dss.caahswnet.gov>

Commission on Teacher Credentialing: [http://www.ctc.ca.gov/credentialinfo/topics/child\\_dev.html](http://www.ctc.ca.gov/credentialinfo/topics/child_dev.html)

National AfterSchool Association: <http://www.nsaca.org>

National Association for the Education of Young Children: <http://www.naeyc.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education: <http://www.ed.gov>

**CHILD CARE SERVICES FOR PARENTING STUDENTS**

**Cal-SAFE Program**

The County Office shall provide child care and development services on or near the school/program site for the children of teen parents enrolled in the County Office's California School Age Families Education (Cal-SAFE) program. Such services shall be available whenever enrolled teen parents are participating in a school-approved activity during or outside the school day. (Education Code 54743, 54745, 54746)

*(cf. 5146 - Married/Pregnant/Parenting Students)*  
*(cf. 5148 - Child Care and Development Services)*

Participation in the child care and development services shall be voluntary. (Education Code 54746)

No fees shall be assessed for child care and development services provided through the Cal-SAFE program. (Education Code 54745)

Children of teen parents shall be eligible for enrollment from birth to age five years or until they enroll in kindergarten, whichever occurs first, as long as the teen parent is enrolled in the County Office's Cal-SAFE program. If the teen parent is enrolled in a summer school program or a school program operating more than 180 days, eligibility shall be determined by the parent's hours of enrollment and only for those hours necessary to further the completion of the parent's educational program. (Education Code 54746, 54749)

Before a child is enrolled in the program or allowed on the school campus, he/she shall have a health evaluation form signed by a physician or the physician's designee. Health screening and immunizations shall not be required when the child's parent/guardian annually files a written request pursuant to Education Code 49451 or Health and Safety Code 120365. (Education Code 54746)

*(cf. 5141.3 - Health Examinations)*  
*(cf. 5141.31 - Immunizations)*

The Tuolumne County Superintendent of Schools or designee shall complete an intake procedure regarding each child upon entry into the program, and periodically as needed thereafter, and shall maintain a developmental profile for each child in order to design a program that meets the child's developmental needs. (Education Code 54746)

Child care and development services shall operate pursuant to applicable sections of Education Code 8200-8498, the Child Care and Development Services Act, and shall meet the health and safety requirements of 22 CCR 101151-10123.92 and 101351-101439.1. (Education Code 54746)

**CHILD CARE SERVICES FOR PARENTING STUDENTS** (continued)

The child care site shall be available as a laboratory for parenting or related courses, with priority given to teen parents enrolled in the County Office's Cal-SAFE program. (Education Code 54746)

*Legal References:*

EDUCATION CODE

8200-8498 *Child Care and Development Services Act*

49451 *Exemption from physical examination*

54740-54749 *Cal-SAFE program for pregnant/parenting students and their children*

HEALTH AND SAFETY CODE

120365 *Exemption from immunization*

CODE OF REGULATIONS, TITLE 22

101151-101239.2 *General licensing requirements for child care centers*

101351-101439.1 *Infant Care Centers*

*Management Resources:*

WEB SITES

*California Department of Education: <http://www.cde.ca.gov>*

**AT-RISK STUDENTS**

The Tuolumne County Superintendent of Schools Office recognizes that personal, social, health, and economic circumstances of children and families sometimes place students at risk of school failure. The County Office believes, however, that each student can succeed in meeting County Office academic standards with appropriate educational programs and support services.

*(cf. 6011 - Academic Standards)*  
*(cf. 6146.1 - High School Graduation Requirements)*  
*(cf. 6146.5 - Elementary/Middle School Graduation Requirements)*  
*(cf. 6162.52 - High School Exit Examination)*

County Office assessments and ongoing classroom evaluations shall be used to identify students performing below grade-level or at risk of failing to meet County Office standards. The Tuolumne County Superintendent of Schools or designee shall develop strategies to address the needs of at-risk students, which may include but are not limited to instructional strategies responsive to the needs of individual students, provision of supplemental instruction outside the regular school day, provision of effective support services, parent involvement, and/or enrollment in an alternative program.

*(cf. 0420 - School Plans/Site Councils)*  
*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 5030 - Student Wellness)*  
*(cf. 5113.1 - Truancy)*  
*(cf. 5131.6 - Alcohol and Other Drugs)*  
*(cf. 5136 - Gangs)*  
*(cf. 5137 - Positive School Climate)*  
*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 5141.22 - Infectious Diseases)*  
*(cf. 5141.3 - Health Examinations)*  
*(cf. 5141.31 - Immunizations)*  
*(cf. 5141.32 - Health Screening for School Entry)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5141.52 - Suicide Prevention)*  
*(cf. 5146 - Married/Pregnant/Parenting Students)*  
*(cf. 5147 - Dropout Prevention)*  
*(cf. 6142.8 - Comprehensive Health Education)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6164.4 - Identification of Individuals for Special Education)*  
*(cf. 6164.5 - Student Success Teams)*  
*(cf. 6164.6 - Identification and Education under Section 504)*  
*(cf. 6179 - Supplemental Instruction)*  
*(cf. 6181 - Alternative Schools)*  
*(cf. 6300 - Preschool/Early Childhood Education)*

The County Superintendent or designee shall ensure that employees are trained to support students and are prepared to implement intervention strategies as needed or to make appropriate referrals.

**AT-RISK STUDENTS** (continued)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The County Office's program for at-risk students shall emphasize coordination between site, County Office, and community-based programs in order to ensure effective implementation and shared accountability.

*Legal Reference: (see next page)*

**AT-RISK STUDENTS (continued)**

*Legal Reference:*

EDUCATION CODE

8800-8807 *Healthy Start support services for children*  
11500-11506 *Programs to encourage parent involvement*  
35160 *Authority of governing boards*  
35183 *Gang-related apparel*  
41505-41508 *Pupil Retention Block Grant*  
41510-41514 *School Safety Consolidated Competitive Grant*  
44049 *Report of alcohol or controlled substance abuse*  
48260-48273 *Truancy*  
48400-48454 *Continuation education*  
48660-48666 *Community day schools*  
49400-49409 *Student health*  
49450-49457 *Physical examinations of students*  
49600-49604 *Educational counseling*  
51266-51266.5 *Gang and substance abuse prevention curriculum*  
51268 *Collaboration re drug, alcohol and tobacco prevention*  
51745-51749.3 *Independent study programs*  
52200-52212 *Gifted and Talented Pupil Program*  
52800-52887 *School-Based Program Coordination Act*  
54400-54425 *Programs for disadvantaged children*  
54440-54445 *Migrant children*  
54740-54749.5 *California School Age Families*  
56000-56001 *Special education programs*  
56302 *Identification and assessment of needs for individuals with disabilities*

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52014 *Inclusion of activities in plan*  
52015 *Components of plan*  
54685-54686.2 *Early Intervention for School Success Program*

HEALTH AND SAFETY CODE

11802 *Joint school-community alcohol abuse primary education and prevention program*  
11965.5-11967.5 *School-community primary prevention program*  
120325-120380 *Immunizations*  
121475-121520 *Tuberculosis tests for students*  
124025-124110 *Child health and disability prevention program*

PENAL CODE

11164-11174.3 *Child abuse and neglect reporting*

WELFARE AND INSTITUTIONS CODE

4343-4360 *Primary intervention programs - mental health*  
4370-4390 *School-based early mental health intervention and prevention*  
18975-18979 *Child abuse prevention training*  
18986.40-18986.46 *Interagency children's services programs*

CODE OF REGULATIONS, TITLE 5

11900-11935 *Healthy Start program*

UNITED STATES CODE, TITLE 20

6301-6578 *Title I programs*

*Management Resources:*

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

**AT-RISK STUDENTS**

**Community Day School Program**

The Tuolumne County Superintendent of Schools Office's Community Day School grades 7-9 and 9-12, provides a unique educational placement option for expelled and other at-risk students.

The daily instructional schedule shall be 360 minutes and will maintain a class size maximum of 15 students.

Instruction shall be integrated, thematic, with access to the CORE curriculum technology, school to work service learning, the visual and performing arts, and physical education.

The goal of instruction is to meet the needs of students, provide students with substantial intervention with their academic and behavior problems, to individualize instruction, and to provide assessment. The intent is to equip students with the skills and attitudes necessary for success when they are returned to a regular school environment.

Independent Study shall not be used as a means of providing any part of this minimum day.

**Placement**

Students may be assigned to the community day school upon meeting one or more of the following conditions: (Education Code 48662

1. The student is expelled for any reason
2. The student is probation-referred pursuant to Welfare and Institutions Codes 300 and 602.
3. A School Attendance Review Board refers the student
4. The student is referred from the student study team process

The priority order for student assignment is: (Education Code 48662(b)

1. Students expelled for mandatory expulsion offenses (Education Code 48915 (d)
2. Students expelled for any other reasons
3. All other students

**AT-RISK STUDENTS** (continued)

Students identified as eligible for services under the Federal Individuals with Disabilities Education Act or Section 504 of the Federal Rehabilitation Act of 1973, shall be first approved by the student's Individualized Education Program (IEP) team or school student study team committee.

**Expulsion Data**

Pursuant to Education Code 48916.1 outcome data related to all of the district's expulsions are reported annually to the State Department of Education.

**Strategies for Addressing Educational Services for Expelled Youth**

The Tuolumne County Superintendent of Schools will:

1. Use existing District Community Day Schools as a primary source of service for K -6 students in that district
2. Have cooperative agreements between school districts that allow the exchange of community school students between districts
3. Provide a modified program that meets the needs of the students through a change in hours of attendance or any range of educational options unique to the student's needs
4. Refer expelled students to the Tuolumne County Community School or Community Day Schools when the district is unable to serve the student at their District Community Day School or individual needs indicate that the county program would be a more appropriate placement
5. Redefine the County operated Community Day School for students in grades 7-9 and revise the current Community Day School to include grades 9-12, allowing for a transition program for successful mature 9th graders
6. Consider Independent Study as an instructional alternative for those students not on probation who pose a danger within the Community School setting, or those who parents agree that this instructional strategy fits the expelled student's needs and a rehabilitation plan is developed showing this
7. Develop a system that coordinates intake and return for all students attending County CDS Programs
8. Develop a transition plan that will assist students in return to the regular education programs

**AT-RISK STUDENTS** (continued)

**Rehabilitation Plans**

A Rehabilitation Plan will be developed for every expelled student who is referred to the County Community School Program or a District Community Day School. Part of this plan will include a review of district rehabilitation directives to be completed prior to readmission to the school district of residence.

Staff from the County Superintendent's Office, in conjunction with the County Probation Department and the referring school district, will collaboratively develop alternate strategies for those Community School students who have difficulty meeting the terms of their plan or who continue to pose a danger to other students.

School districts will maintain responsibility for developing, directing, and implementing Rehabilitation plans for students attending Community Day Schools, as well as for students with suspended expulsions. School districts will provide for the special education needs of students living in their respective school districts.