

LODI UNIFIED SCHOOL DISTRICT

Policy 5144.1

Students

Student Suspension/Expulsion/Due Process

The Board of Education desires to provide district students access to educational opportunities in an orderly school environment that protects their safety and security, ensures their welfare and well-being, and promotes their learning and development. The Board shall develop rules and regulations setting the standards of behavior expected of district students and the disciplinary processes and procedures for addressing violations of those standards, including suspension and/or expulsion.

The grounds for suspension and expulsion and the procedures for considering, recommending, and/or implementing suspension and expulsion shall be those specified in law, in this policy, Board Policy 5144, and in the accompanying administrative regulation.

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any district school or another school district, regardless of when it occurs including, but not limited to, the following:

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

District staff shall enforce the rules concerning student suspension and expulsion fairly, consistently, and in accordance with the district's nondiscrimination policies. Routine discipline matters will be handled by school administration. School resource officers will only be called upon for threats to school safety and serious school-based criminal conduct that cannot be safely and appropriately handled by the school's internal disciplinary procedures.

Except when a student's act violates Education Code 48900 (a)-(e), as listed in items #1-5 under "Grounds for Suspension and Expulsion" of the accompanying Administrative Regulation, or when his/her presence causes a danger to others, suspension shall be

used only when other means of correction have been documented and have failed to bring about proper conduct.

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

No student in grades K-3 may be suspended for disruption or willful defiance, except by a teacher pursuant to Education Code 48910.

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

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

On Campus Suspension

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

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

Authority to Expel

A student may be expelled only the Board of Education.

As required by law, the Superintendent or principal shall recommend expulsion and the Board shall expel any student found to have committed any of the following "mandatory recommendation and mandatory expulsion" acts at school or at a school activity off school grounds:

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee with the principal or designee's concurrence

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other violations listed in the accompanying administrative regulation under “Grounds for Suspension and Expulsion” and “Additional Grounds for Suspension and Expulsion: Grades 4-12,” the Superintendent or principal shall have the discretion to recommend expulsion of a student. If the expulsion is recommended, the Board shall order the student expelled only if it makes a finding of either or both of the following:

1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct
2. That due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others

A vote to expel a student shall be taken in a public session.

The Board may vote to suspend the enforcement of the expulsion order pursuant to the requirements of law and the accompanying Administrative Regulation.

No student shall be expelled for disruption or willful defiance.

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, hearings, and appeals as specified in law and Administrative Regulation. Procedures governing student due process shall conform in all aspects to provisions in law.

Maintenance and Monitoring of Outcome Data

The Superintendent or designee shall annually present to the Board a report of the outcome data which the district is required to collect pursuant to Education Code 48900.8 and 48916.1, including the number of students recommended for expulsion, the grounds for each recommended expulsion, the actions taken by the Board, the types of

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 lewd or lascivious acts with child
under age 14
288a Oral copulation penetration of genital or anal openings
626.2 Entry upon campus after written notice of suspension or
dismissal without permission
Gun-Free School Zone Act of 1995
Dirks, daggers, knives, razors or stun guns
868.5 Supporting person; attendance during testimony of witness
WELFARE AND INSTITUTIONS CODE
729.6 Counseling
UNITED STATES CODE, TITLE 18
921 Definitions, firearm
UNITED STATES CODE, TITLE 20
7151 Gun free schools
COURT DECISIONS
T.H. v. San Diego Unified School District (2004) 122 Cal. App
4th 1267
Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421
Board of Education of Sacramento City Unified School District v.
Sacramento County Board of Education and Kenneth H., (2001)
85 Cal. App. 4th 1321
Garcia v. Los Angeles Board of Education (1991) 123 Cal.
App. 3d 807
Fremont Union High School District v. Santa Clare County Board
(1991) 235 Cal. App. 3d 1182
John A. v. San Bernardino School District (1982) 33 Cal. 3d
301
ATTORNEY GENERAL OPINONS
84 Ops. Cal. Atty. Gen. 146 (2001)
80 Ops. Cal. Atty. Gen. 91 (1997)

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

Management Resources

CSBA PUBLICATIONS

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

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Civil Rights Data Collection Summary, March 2012

WEB SITES

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

California Attorney General's Office: <http://www.oag.ca.gov>

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

U.S. Department of Education, Office for Civil Rights:

<http://www.ed.gov/about/offices/list/ocr/docs/crdc-2012-data-summary.pdf>

U.S. Department of Education, Office of Safe and Drug-Free

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

Policy

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