

**Students**

**Suspension and Expulsion/Due Process (Individuals with Disabilities)**

Suspension: A student *identified as an individual with disabilities pursuant to the Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973* is subject to the same grounds for suspension which apply to *regular education* students. All the procedural safeguards established by District policies and regulations shall be observed in considering the suspension of *students with disabilities*.

The Superintendent or designee may suspend a student *with disability* for up to five school days for a single incident of misconduct, and for up to twenty school days in a school year. If the student is transferred to another school or alternative educational program, the student may be suspended for up to thirty school days in a school year, but still no more than five days for a single incident of misconduct, unless the student is suspended by the Board under Education Code 48912. (Education Code 48903, 48911)

*If the student poses an immediate threat to the safety of himself/herself or others, the Superintendent or designee may suspend the student for up to, but not more than, ten consecutive school days. In the case of a dangerous child, a suspension may exceed ten consecutive school days, and/or the student's placement may be changed, if the parent/guardian so agrees or if a court order so provides. (EC 48911)*

*If a student with disability possesses at school or at a school activity a weapon as defined in the United States Code, Title 18, Section 921, he/she shall be immediately suspended and may be placed in an alternative educational setting for not more than 45 calendar days, or until the conclusion of any due process proceedings requested by the parent/guardian. The student's alternative educational setting shall be determined by the student's IEP team or school site committee. (EC 48915; 20 USC 1415)*

Monitoring of Suspensions: Whenever a student identified as an individual with disability has been suspended on three separate occasions or for a total of five days, whichever occurs first, the student's individualized education program (IEP) team or school site committee shall meet to consider:

- 1) Whether the student's misconduct was related to his/her disability,
- 2) Whether the misconduct was the result of an inappropriate placement, and
- 3) Whether a change in placement has occurred as a result of the cumulative suspensions.

Based on its findings, the IEP team or school site committee shall determine whether to initiate alternatives to suspension, a change in placement or

other changes to the student's IEP or accommodation plan.

Expulsion: Procedures and timelines governing the expulsion of students *with disabilities* shall be the same as those for *all* other students, except that a preexpulsion assessment shall be made and an individualized education program (IEP) team *or school site committee* meeting held under conditions and with possible consequences as follows:

1. The parent/guardian shall receive written notice of the District's intent to conduct the preexpulsion assessment and shall make the student available for the assessment without delay at a site designated by the District. The parent/guardian shall also have the right to an independent assessment as provided in Education Code 56329. (Education Code 48915.5)
2. The preexpulsion educational assessment shall be conducted in accordance with the guidelines of the Code of Federal Regulations, Title 34, Section 104.35, which shall include a review of the student's placement at the time of the alleged misconduct and a determination of the relationship, if any, between the student's behavior and his/her disability. (Education Code 48915.5)
3. An IEP meeting shall be held to determine if an expulsion hearing is appropriate. This meeting shall be held at a time and place mutually convenient to the parent/guardian and District within the period, if any, of the student's preexpulsion suspension. The parent/guardian's participation may be made through actual participation, representation, or a telephone conference call. (EC 48915.5)
4. The parent/guardian shall be notified of his/her right to participate in the meeting at least 48 hours before the meeting. This notice shall specify:
  - a. That the meeting may be held without the parent/guardian's participation unless he/she requests a postponement for up to three additional schooldays, and
  - b. That the suspension will be continued during the postponement if the student continues to pose an immediate threat to the safety of himself/herself or others. (EC 48915.5)

In order to make a record of its attempts to arrange the meeting at a time and place mutually agreed upon, the District shall keep documentation such as:

- a. Detailed records of telephone calls made or attempted and the results of those calls.
- b. Copies of correspondence sent to parents/guardians and any responses received.

- c. Detailed records of visits made to the parent/guardian's home or place of employment and the results of those visits. (Code of FedRegs, Title 34,Section 300.345)
- 5. The District shall grant a parent/guardian's request that the meeting be postponed for up to three additional school days and may extend a student's suspension for the period of postponement if he/she continues to pose an immediate threat to the safety of himself/herself or others. However, the suspension shall not be extended beyond ten consecutive schooldays unless agreed to by the parent/guardian or by court order. If the parent/guardian refuses to consent to an extension beyond ten consecutive schooldays and chooses not to participate, the meeting may be conducted without the parent/guardian's participation. (Education Code 48915.5)
- 6. The IEP team shall consider the preexpulsion assessment results and shall also review and consider the student's health records and school discipline record. (Education Code 48915.5)
- 7. If the IEP team determines that the alleged misconduct was caused by, or a direct manifestation of, the student's disability or that the student was not appropriately placed, the expulsion shall not proceed.
- 8. If the IEP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the student's disability, and if it is determined that the student was appropriately placed, the student shall be subject to expulsion in accordance with procedures that apply to all students. (EC 48915.5)
- 9. When expulsion is recommended, the IEP team should also recommend a potential rehabilitation plan for the student, if appropriate.

Due Process and Expulsion Hearings: If the parent/guardian disagrees with the IEP team's decision, he/she has a right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States Code.

Due process appeals must be initiated within 15 days of the IEP team's decision.

The expulsion hearing shall not be conducted, and the 30-day expulsion proceedings time limit shall not commence, until after completion of:

1. The preexpulsion assessment,
2. The IEP meeting, and
3. Due process hearings and appeals, if initiated. (EC 48915.5)

The Board may expel a student *with disability* only if an IEP team has determined that 1) the misconduct was not caused by, or a direct manifestation of, the student's identified disability; and 2) the student was appropriately placed at the time the misconduct occurred. (EC 48915.5)

Services During Expulsion: During the term of the expulsion, a special education student shall continue to be offered a program of appropriate educational services that is individually designed to meet his/her unique learning needs. Such services may include independent study, home instruction, or another appropriate alternative program.

The Board shall consider the recommendations of the IEP team or school site committee when developing a rehabilitation plan for an expelled student with disability.

Readmission: *Readmission procedures for students with disabilities shall parallel those used for all students. The Superintendent or designee may consider the input of the student's IEP team or school site committee when developing recommendations to the Board regarding a request for readmission. Upon readmission, an IEP team or school site committee meeting shall be convened to determine whether a new IEP or accommodation plan needs to be established.*

Suspension of Expulsion: The Board's criteria for suspending the enforcement of an expulsion order shall be applied to students with disabilities just as they are applied to regular students. (EC 48917)