

ALBANY UNIFIED SCHOOL DISTRICT  
BOARD OF EDUCATION

P1

**SPECIAL MEETING  
STUDY SESSION  
(Open Session)**

**Albany City Hall**  
1000 San Pablo Avenue  
Albany, CA 94706

**TUESDAY**  
June 15, 2010  
5:30 p.m. – 6:55 p.m.

**A G E N D A**

Public comment will be heard on any item identified on this agenda before or during Board consideration of that item. The Board may limit comments to no more than three minutes pursuant to Board Policy. At Special Meetings, such as this one, comments are limited to those items identified on the agenda (Government Code Section 54954.3(a)).

The Study Session provides an opportunity for interested parties to review and make recommendations to Board Policy/Administrative Regulation Section 5142-5145.9 – Students.

**I. OPENING BUSINESS 5:30 p.m.**

- A) Call to Order
- B) Roll Call
- C) Pledge of Allegiance

**II. STUDY SESSION**

- A) Continue 1<sup>st</sup> Reading Board Policy (BP)/Administrative Regulation (AR)  
Section 5117 – Interdistrict Attendance (Students), BP/AR 5121-5125 and  
BP/AR 5144.1-5145.9 – (Students)

**III. ADJOURNMENT**

*The Board believes that late night meetings deter public participation, can affect the Board's decision-making ability, and can be a burden to staff. Regular Board Meetings shall be adjourned at 10:00 p.m. unless extended to a specific time determined by a majority of the Board.*

The Board of Education meeting packet is available for public inspection at the Albany Public Library, 1247 Marin Avenue, all school sites, and the lobby of the Albany Unified School District office, 1051 Monroe Street, Albany. The agenda is available on the Albany Unified School District web site: [www.ausd.ca.schoolloop.com](http://www.ausd.ca.schoolloop.com)

If you provide your name and/or address when speaking before the Board of Education, it may become a part of the official public record and the official minutes will be published on the Internet

In compliance with the Americans with Disability Act (ADA), if you need special assistance to participate in this meeting, please contact the Superintendent's Office at 510-558-3766. Notification must be given forty-eight (48) hours prior to the meeting to make reasonable arrangements for accessibility (28 CFR 35.102.104 ADA Title II).

Students

BP 5117(a)

**INTERDISTRICT ATTENDANCE****Interdistrict Attendance Permits**

California state law and the rules and regulations of the State Board of Education state a preference that students attend schools in their districts of residency. The district Board of Education believes that children should attend schools where they live. The Board shall consider requests for interdistrict attendance agreements in accordance with this general ~~principal~~ principle.

The Board of Education recognizes that students who reside in one school district may ~~choose~~ wish to attend school in another school district and that such choices are made for a variety of reasons. Because of capacity issues within the district and due to limited resources, the Board will consider approving such transfers on a case-by-case basis through an interdistrict transfer agreement with another school district. In the case of a student wishing to transfer into the district, the request will be considered when class enrollment or program availability will permit the attendance of an out-of-district student.

*(cf. 5116.1 – Intradistrict Open Enrollment)*

~~The Board desires to communicate with parents/guardians and students regarding the district's educational programs and services.~~

~~The Board recognizes that the district may be capable of serving additional students. Upon request by students' parents/guardians, the Superintendent or designee may approve interdistrict attendance permits with other districts on a case-by-case basis to meet individual student needs.~~

~~The interdistrict attendance permit shall not exceed a term of five years and shall stipulate the terms and conditions under which interdistrict attendance shall be permitted or denied. (Education Code 46600)~~

~~The Superintendent or designee may deny interdistrict attendance permits because of overcrowding within district schools or limited district resources.~~

~~In the event that space is not available for all interdistrict transfer requests, the following priority will be used:~~

- ~~1<sup>st</sup> Priority: Albany Unified School District Employees (must work .40 FTE or more)~~
- ~~2<sup>nd</sup> Priority: City of Albany Employees (employed at least 20 hours a week)~~
- ~~3<sup>rd</sup> Priority: Children with a currently enrolled sibling(s) and would be concurrently enrolled in the district at the same time.~~
- ~~4<sup>th</sup> Priority: All other applicants.~~

BP 5117(b)

**INTERDISTRICT ATTENDANCE (continued)**

The Superintendent or designee of the district shall review all requests for interdistrict attendance agreements. The Superintendent is authorized to grant or deny interdistrict attendance requests.

The decision to admit out-of-district students is discretionary. When capacity exists, applications may be approved based on the following priorities:

Text Box 2

**1<sup>st</sup> Priority: Students whose parents/guardians are employees of the Albany Unified School District (must work .40 FTE or more).**

**2<sup>nd</sup> Priority: Students whose parents/guardians are business owners/operators within district boundaries.**

**3<sup>rd</sup> Priority: Students whose parents/guardians are employed by the City of Albany (employed at least 20 hours per week)**

**4<sup>th</sup> Priority: All other applicants.**

1<sup>st</sup> Priority: Students whose parents/guardians are employees of the Albany Unified School District (must work .40 FTE or more).

2<sup>nd</sup> Priority: Students whose parents/guardians are employed by the City of Albany, or employed within the district boundaries (employed at least 20 hours per week).

3<sup>rd</sup> Priority: Students whose siblings are ongoing interdistrict transfer students or whose requests are based on a desire to ensure educational continuity.

4<sup>th</sup> Priority: ~~Students whose requests are based on a desire to ensure educational continuity.~~

4<sup>th</sup> Priority: All other applicants.

Notwithstanding these priorities, the Superintendent/designee may grant a transfer if, in the judgement of the ~~Superintendent~~ Superintendent/designee, the parents/guardians provide evidence of extraordinary circumstances warranting a transfer.

The Superintendent or designee may deny applications for interdistrict transfers due to space limitations or other non-discriminatory reasons. The Superintendent or designee may also revoke an interdistrict transfer permit for non-discriminatory reasons.

**INTERDISTRICT ATTENDANCE (continued)**

The parent/guardian of a student who is denied a transfer request pursuant to Education Code sections 46600-46611 shall receive timely notice, in accordance with law, regarding the

process for appeal to the Albany Unified School District Board of Education, and to the County Board of Education. A student whose request for transfer is based on his/her parent's employment within the district's boundaries, including employment by the district, shall not have the right to appeal a denial to the County Board.

Students who have been expelled from other school districts may not be admitted to the district on interdistrict attendance agreements during the period of their expulsions. Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials while expulsion proceedings are pending, or during the term of the expulsion.

Transportation will not be provided for students attending the district on interdistrict transfer agreements.

*Legal Reference:*EDUCATION CODE46600-46611 *Interdistrict attendance agreements*48204 *Residency requirements for school attendance*48300-48315 *Student attendance alternatives*48915 *Expulsion particular circumstances*48915.1 *Expelled individuals: enrollment in another district*48918 *Rules governing expulsion procedures*48980 *Notice at beginning of term*52317 *ROP, enrollment of students, interdistrict attendance*GOVERNMENT CODE6250-6270 *Public Records Act*

6250-6271

Students

AR 5117(a)

**INTERDISTRICT ATTENDANCE****Interdistrict Attendance Permits**General Information

Requests for interdistrict attendance permits, both incoming and outgoing, shall be submitted to the employee in charge of interdistrict requests and ~~reviewed~~ reviewed annually by the Superintendent or designee. All requests, whether into or out of the district, are for one school year only and must be renewed annually. For transfers into the district, the student and parent/guardian must sign an Interdistrict Transfer Student Contract annually.

Each transfer request will be judged on its individual merits. All factual information and supporting documentation submitted with the transfer request will be subject to verification. Any transfer request containing or based upon false information will be denied or revoked, and the parent or guardian responsible will be referred to the appropriate legal authorities.

Subject to the priorities established by BP 5117, the Superintendent or designee may approve Interdistrict Attendance Agreements for the following reasons:

1. ~~The student has a parent who is employed by the Albany Unified School District. Certificated and Classified employees must be employed at least 40 percent of full-time.~~
2. ~~The student has a parent who is employed by the City of Albany. The parent must be employed in a paid position for a minimum of 20 hours per week annually. Proof of employment must be submitted annually and may be required by the district at any time.~~
3. ~~When a student has a sibling(s) attending school in the receiving district, to avoid splitting the family's attendance~~
4. ~~To allow children who have been enrolled in AUSD schools at the time their parents/guardians move out of the district including:
 
  - a. ~~To allow students to remain with a class graduating that year from an elementary, junior or senior high school~~
  - b. ~~To let high school seniors attend the same school they attended as juniors, even if their families moved out of the district during the junior year~~
  - c. ~~When a student will be living out of the district for one year or less~~~~
5. ~~To allow a student whose family is renovating or building a new home in Albany, the student may be admitted upon submission of all of the following:~~

**INTERDISTRICT ATTENDANCE (continued)**

- a. ~~A written statement by the parent/guardian certifying that construction has begun, with completion expected prior to the end of the semester~~
  - b. ~~A building permit issued by the City of Albany~~
  - c. ~~Proof that construction (pouring of foundation and/or actual erection of forms) is under way~~
  - 6. ~~To meet the child care needs of a student. Such students may be allowed to continue to attend district schools only as long as they continue to use a child care provider within district boundaries~~
  - 7. ~~When the parent/guardian provides written evidence that the family will be moving into the district in the immediate future and would like the student to start the year in the district~~
  - 8. ~~To meet a child's special mental or physical health needs as certified by a physician, school psychologist, or other appropriate school personnel~~
- (cf. 6159 - Individualized Education Program)*
- 9. ~~When recommended by the School Attendance Review Board or by county child welfare, probation, or social service agency staff in documented cases of serious home or community problems which make it inadvisable for the student to attend the school of residence~~
- (cf. 5113.1 - Truancy)*
- 10. ~~When there is valid interest in a particular educational program not offered in the district of residence~~
  - 11. ~~To provide a change in school environment for reasons of personal and social adjustment~~

~~Per BP 5116.1: In the event that space is not available for all interdistrict transfer requests, the following priority will be used:~~

~~1st Priority: Albany Unified School District Employees (must work .40 FTE or more)  
#1 above~~

~~2nd Priority: City of Albany Employees (employed at least 20 hours a week) #2  
above~~

AR 5117(c)

**INTERDISTRICT ATTENDANCE (continued)**

~~3rd Priority: a) Children with a currently enrolled sibling(s) who would be enrolled in the district at the same time. b) Children who have been enrolled in AUSD schools at the time their parents/guardians move out of the district.~~

~~4th Priority: All other applicants. #5-11 above~~

~~The school site and teacher assignment of children whose parents/guardians' residences are located outside the district will be the responsibility of the district in order to balance class size and composition. It may be necessary to have students move to different sites in subsequent school years.~~

Requests for Interdistrict Attendance Permits Into the District

1. The parent/guardian must first obtain approval for the student's transfer from the student's current district of residence on the appropriate form.
2. The Superintendent or designee may **approve, deny or place on the waiting list** requests for new interdistrict attendance permits that are approved by the district of residence and submitted to the Albany Unified School District by June 1 for the following school year. Applicants will be advised by the first week of the school year as to whether their applications have been approved, denied or wait-listed.
3. The Superintendent or designee may deny requests for interdistrict attendance permits if the district's facilities are overcrowded at the relevant grade level and based on other nonarbitrary considerations.
4. If the request for transfer is approved, the district retains the **authority right** to determine the specific school to which the student will be assigned. However, the district will attempt to accommodate a parent/guardian's request for placement in a specific school site, subject to the priorities and policies established in the district's residency regulations.
5. If the request for transfer is denied, the parent/guardian will be notified in writing of the right to appeal to the district Board of Education. If the appeal is denied by the Board of Education, the parent/guardian will be notified in writing regarding the process for appeal to the County Board of Education. An appeal to the County Board of Education must be made within thirty days of the district Board's denial. A student whose request for transfer is based on his/her parent's employment within the district's boundaries, including employment by the district, shall not have the right to appeal a denial to the County Board.

The Board requires that all requests for interdistrict attendance and the required supporting documentation be certified by the parent, guardian, childcare provider or caregiver under

## **INTERDISTRICT ATTENDANCE (continued)**

penalty of perjury. The Superintendent or designee is responsible for confirming the accuracy of information contained in such requests and documentation; investigating any suspicion that information has been falsified; reporting such violations to the appropriate law enforcement agencies; and reporting such activities to the Board.

### Requests for Renewal of Interdistrict Attendance Permits Into the District

Requests for renewal of interdistrict attendance permits into the district will be reviewed according to the process for new interdistrict attendance permits, with the following exceptions:

1. A request for renewal of an interdistrict attendance permit must be submitted by April 1<sup>st</sup>. Applicants will be advised by June 1 whether the application is approved or denied.
2. A request for renewal of an interdistrict attendance permit submitted after April 1 will be processed as a new request.
3. If admission to the district was approved *based on the location of the student's parent's employment*, the student shall be allowed to attend school in the district through the 12<sup>th</sup> grade, if the parent/guardian so chooses, subject to (1) annual completion of the interdistrict application by the April 1<sup>st</sup> deadline to verify continued employment within the district **according to proof acceptable to the district, consistent with the district's Residency Policy and Regulations**; and (2) any other limitation as allowed by law, including violations of the Interdistrict Transfer Student Contract.

### Grounds for Approval

The Superintendent or designee may approve interdistrict attendance permits when capacity within the district exists. Students whose requests are denied solely because of lack of capacity within the district will be placed on a waiting list, and their applications will be considered if space becomes available.



**INTERDISTRICT ATTENDANCE (continued)**

Applications may be approved based on the following priorities:

**Text Box 3**

- 1<sup>st</sup> Priority: Students whose parents/guardians are employees of the Albany Unified School District (must work .40 FTE or more).
- 2<sup>nd</sup> Priority: Students whose parents/guardians are business owners/operators within district boundaries.
- 3<sup>rd</sup> Priority: Students whose parents/guardians are employed by the City of Albany (employed at least 20 hours per week)
- 4<sup>th</sup> Priority: All other applicants.

1<sup>st</sup> Priority: Students whose parents/guardians are employees of the Albany Unified School District (must work .40 FTE or more).

2<sup>nd</sup> Priority: Students whose parents/guardians are employed by the City of Albany, or employed within the district boundaries (employed at least 20 hours per week).

3<sup>rd</sup> Priority: Students whose siblings are ongoing interdistrict transfer students.

4<sup>th</sup> Priority: Students whose requests are based on a desire to ensure educational continuity

5<sup>th</sup> Priority: All other applicants.

**Text Box 4**

Regarding priorities 1 and 2, above, "employment" generally describes a relationship between an employer and an employee. **An employee does not include one who performs services as an independent contractor, but does include a person who is self-employed with a permanent place of business within the boundaries of the district. Interdistrict transfer applications siting employment within district boundaries must be supported by written verification by the employer (or by the parent/guardian, if self-employed) of employment of at least twenty (20) hours per week and for at least thirty (30) weeks per year. Verification shall be attached to the original application for an interdistrict attendance permit, and to each subsequent application.**

Regarding priority 4, above, "educational continuity" includes such considerations as the desire to complete the highest grade at a site or continuing education in the district after a number of years as a district student. Transfer requests also may be approved to allow a

**INTERDISTRICT ATTENDANCE** (continued)

student to complete a school year when the parent or guardian has moved out of the district during the year, or to continue attendance if the student will be living out of the district for less than one school year. Students who have moved out of the district and wish to remain in the district for the remainder of the year may stay pending approval by the new district of residence or an appeal of that district's decision to the Alameda County Office of Education, and a positive recommendation by the school principal.

Notwithstanding these priorities, the Superintendent/designee may grant a transfer if, in the judgment of the Superintendent/designee, the parents/guardians provide evidence of extraordinary circumstances (such as a threat of physical harm to a student) warranting a transfer.

**Revocation of Interdistrict Attendance Permits**

Every interdistrict attendance permit shall stipulate the terms and conditions under which the permit may be revoked. (Education Code 46600)

~~A student's Interdistrict Agreement may be revoked because of excessive truancy or continual disruption of the educational program as follows:~~

Grades K-5:

~~Attendance: \_\_\_\_\_ Four or more unverified or unexcused absences  
 \_\_\_\_\_ Excessive excused absences (10 percent or more)  
 \_\_\_\_\_ Excessive tardies (five percent or more)~~

~~Behavior: \_\_\_\_\_ Repeated disruption of classroom/school activities or  
 \_\_\_\_\_ Repeated referral to the principal for misconduct or  
 \_\_\_\_\_ Recommendation for expulsion to the Board~~

Grades 6-12:

~~Attendance: \_\_\_\_\_ More than 20 percent absences per quarter~~

~~Behavior: \_\_\_\_\_ A suspension of three or more days or a total of three suspensions for the year or recommendation for expulsion to the Board~~

~~Tardies: \_\_\_\_\_ For grades 6-8 only: A total of 12 tardies per semester or more than four tardies to one class per semester~~

AR 5117(g)

**INTERDISTRICT ATTENDANCE (continued)**Grounds for Revocation

Pursuant to Education Code section 46600, the following are the terms and conditions under which an interdistrict attendance permit may be revoked:

1. Determination by the district that the transfer request or supporting documentation was based upon false or fraudulent information.
2. Failure to comply with the requirements of the Interdistrict Transfer Student Contract, which include demonstrating acceptable academic performance, attendance, and behavior. The Contract must be signed by both the student and the parent/guardian.
3. Determination by the district that the conditions on which the interdistrict attendance permit approval was based are no longer met. It is the responsibility of the parent/guardian to notify the district within ~~ten (10)~~ **thirty (30)** days if any of the conditions justifying the transfer approval change. The student may be permitted, within the discretion of the Superintendent or designee, to complete the school year in the district with the approval of the district of residence.
4. Determination by the district that the continuing presence of the student is not in the student's best educational interest, or will interfere with the needs of other students, or both.

The district will give ten days' notice to a parent or guardian prior to the revocation of an interdistrict attendance permit.

Requests for Interdistrict Attendance Agreements Out of the District

Parents/guardians of students wishing to transfer out of the district shall complete an application for transfer. It is required that the parent/guardian of the applicant meet with the student's current school principal to discuss the reason for the transfer request and obtain his/her signature on the application.

Applications will be approved or denied by the Superintendent or designee. Applicants will be notified in writing if the request is denied, and will be given the reason for the denial. Denials by the district may be appealed to the district Board of Education. If the appeal is denied, the request may be appealed to the Alameda County Office of Education within thirty days of the district's final decision. **Reasons for denial may include loss of district revenue to do the outgoing transfer of a student.**

**INTERDISTRICT ATTENDANCE (continued)**

Applications that are approved by the district must also be approved by the receiving district. Parents should advise the Albany Unified School District of the final disposition of their request within five days of notification by the receiving district or the Alameda County Office of Education, in the case of an appeal.

**Denial of Interdistrict Attendance Permit**

~~The Superintendent or designee may deny initial requests for interdistrict attendance permits if school facilities are overcrowded at the relevant grade level or based on other considerations that are not arbitrary.~~

~~The Superintendent or designee shall notify the parents/guardians of a student who is denied interdistrict attendance regarding the process for appeal to the County Board of Education as specified in Education Code 46601. (Education Code 46601)~~

~~(cf. 5145.6 - Parental Notifications)~~

~~Students who are under consideration for expulsion or who have been expelled may not appeal interdistrict attendance denials or decisions while expulsion proceedings are pending, or during the term of the expulsion. (Education Code 46601)~~

~~(cf. 5119 - Students Expelled from Other Districts)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)~~

~~Transportation shall not be provided for students admitted pursuant to an Interdistrict Attendance Agreement.~~

*Legal Reference:*EDUCATION CODE

48204 Residency requirements for school attendance  
46600-46611 Interdistrict Attendance Agreements

**Students**

BP 5121(a)

**GRADES/EVALUATION OF STUDENT ACHIEVEMENT**

The Board of Education believes that grades serve a valuable instructional purpose by helping students and parents/guardians identify the student's areas of strength and those areas needing improvement. Parents/guardians and students have the right to receive course grades that represent an accurate evaluation of the student's achievement.

*(cf. 5020 - Parent Rights and Responsibilities)*

The teacher of each course shall determine the student's grade. The grade assigned by the teacher shall not be changed by the Board or the Superintendent except as provided by law, Board policy and administrative regulation. (Education Code 49066)

*(cf. 5125.3 - Challenging Student Records)*

Teachers shall evaluate a student's work in relation to standards which apply to all students at his/her grade level. The Superintendent or designee shall establish and regularly evaluate a uniform grading system, and principals shall ensure that student grades conform to this system. Teachers shall inform students and parents/guardians how student achievement will be evaluated in the classroom.

*(cf. 6011 - Academic Standards)*

*(cf. 6020 - Parent Involvement)*

Grades should be based on impartial, consistent observation of the quality of the student's work and his/her mastery of course content and objectives. Students shall have the opportunity to demonstrate this mastery through a variety of methods such as classroom participation, homework, tests and portfolios.

When reporting student grades to parents/guardians, teachers may add narrative descriptions, observational notes and/or samples of classroom work in order to better describe student progress in specific skills and subcategories of achievement.

**Unexcused Absences**

If a student misses class without an excuse and does not subsequently turn in homework, take a test or fulfill another class requirement which he/she missed, the teacher may lower the student's grade for nonperformance.

*(cf. 6154 - Homework/Makeup Work)*

Students with excessive unexcused absences may receive a failing grade and not receive credit for the class(es).

*(cf. 5113 - Absences and Excuses)*

*Legal Reference: (see next page)*

**GRADES/EVALUATION OF STUDENT ACHIEVEMENT (continued)***Legal Reference:*EDUCATION CODE*41505-41508 Pupil Retention Block Grant**48070 Promotion and retention**48205 Excused absences**49066 Grades; finalization; physical education class**49067 Mandated regulations regarding student's achievement**49069.5 Students in foster care, grades and credits*CODE OF REGULATIONS, TITLE 5*10060 Criteria for reporting physical education achievement, high schools*UNITED STATES CODE, TITLE 20*1232g Family Education Rights and Privacy Act (FERPA)**6101-6251 School-to-Work Opportunities Act of 1994*COURT DECISIONS*Owasso Independent School District v. Falvo (2002) 122 S.Ct. 934**Las Virgenes Educators Association v. Las Virgenes Unified School District (2nd Appellate District**2001) 86 Cal.App.4th 1**Swany v. San Ramon Valley Unified School District (N.D.Cal. 1989) 720 F.Supp. 764**Johnson v. Santa Monica-Malibu Unified School District Board of Education (App. 2 Dist. 1986) 224 Cal. Rptr. 885, 179 C.A. 3d 593**Management Resources:*CDE PUBLICATIONS*Elementary Makes the Grade!, 2001*WEB SITES*CDE: <http://www.cde.ca.gov>**Advanced Placement Challenge Project: <http://www.apchallenge.net>*

**Students**

AR 5121(a)

**GRADES/EVALUATION OF STUDENT ACHIEVEMENT****Grades for Achievement**

Grades for achievement shall be reported for each marking period as follows:

|   |           |                           |                  |
|---|-----------|---------------------------|------------------|
| A | (90-100%) | Outstanding Achievement   | 4.0 grade points |
| B | (80-89%)  | Above Average Achievement | 3.0 grade points |
| C | (70-79%)  | Average Achievement       | 2.0 grade points |
| D | (60-69%)  | Below Average Achievement | 1.0 grade points |
| F | (0-59%)   | Little or No Achievement  | 0 grade points   |
| I |           | Incomplete                | 0 grade points   |

Whenever it becomes evident to a teacher that a student is in danger of failing a course, the teacher shall arrange a conference with the student's parent/guardian or send the parent/guardian a written report. (Education Code 49067)

*(cf. 5123 - Promotion/Acceleration/Retention)*  
*(cf. 6020 - Parent Involvement)*

An Incomplete is given only when a student's work is not finished because of illness or other excused absence. If not made up within six weeks, the Incomplete shall become an F.

**Grades for Physical Education**

No grade of a student participating in a physical education class may be adversely affected due to the fact that the student, because of circumstances beyond his/her control, does not wear standardized physical education apparel. (Education Code 49066)

Student performance in high school physical education courses shall be based upon evaluation of the student's individual progress, attainment of goals in each instructional area, tests designed to determine skill and knowledge, and physical performance tests.

*(cf. 6142.7 - Physical Education)*

**Grades for Citizenship and Effort**

Grades for citizenship and effort shall be reported each marking period as follows:

|   |                   |
|---|-------------------|
| O | Outstanding       |
| S | Satisfactory      |
| N | Needs Improvement |

**Pass/Fail Grading**

The Superintendent or designee may identify courses or programs for which students may, with parent/guardian permission, elect to earn a Pass or Fail grade instead of an A-F grade.

**GRADES/EVALUATION OF STUDENT ACHIEVEMENT** (continued)

Students who receive a Pass grade shall acquire the appropriate semester units of credit for the course. The grade shall not be counted in determining class rank, honors list, or membership in the California Scholarship Federation. Students who receive an F grade shall not receive credit for taking the course.

**Repeating Classes**

With the approval of the principal or designee, a student may repeat a course in order to raise his/her grade. Both grades received shall be entered on the student's transcript, but the student shall receive credit only once for taking the course.

The highest grade received shall be used in determining the student's overall grade point average.

**Absences from School**

Teachers who withhold class credit because of excessive unexcused absences shall so inform the class and parents/guardians at the beginning of the semester.

When an unexcused absence occurs, the student and parent/guardian shall again be notified of the district's policy regarding excessive unexcused absences.

*(cf. 5113 - Absences and Excuses)*

The student and parent/guardian shall have a reasonable opportunity to explain the absences. (Education Code 49067)

If a student receives a failing grade because of unexcused absences, the student's record shall specify that the grade was assigned because of excessive unexcused absences. (Education Code 49067)

*(cf. 5125 - Student Records)*

Grades for a student in foster care shall not be lowered if the student is absent from school due to either of the following circumstances: (Education Code 49069.5)

1. A decision by a court or placement agency to change the student's placement, in which case the student's grades and credits shall be calculated as of the date the student left school
2. A verified court appearance or related court-ordered activity

Regulation  
approved:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California



**Students**

BP 5123(a)

**PROMOTION/ACCELERATION/RETENTION**

The Board of Education expects students to progress through each grade level within one school year. To accomplish this, instruction should accommodate the variety of ways that students learn and include strategies for addressing academic deficiencies when needed.

Students shall progress through the grade levels by demonstrating growth in learning and meeting grade-level standards of expected student achievement.

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

When high academic achievement is evident, the Superintendent or designee may recommend a student for acceleration into a higher grade level. The student's maturity level shall be taken into consideration in making a determination to accelerate a student.

As early as possible in the school year, the Superintendent or designee shall identify students who should be retained and who are at risk of being retained in accordance with law, Board policy, administrative regulation, and the following criteria.

1. Students shall be identified on the basis of grades or other indicators of academic achievement designated by the district.

*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 5149 - At-Risk Students)*

2. Students shall be identified on the basis of the assessment results on the state's Standardized Testing and Reporting Program and the minimum levels of proficiency recommended by the State Board of Education.

*(cf. 5149 - At-Risk Students)*  
*(cf. 6162.5 - Student Assessment)*  
*(cf. 6162.51 - Standardized Testing and Reporting Program)*

When any student in grades 2-9 is retained or recommended for retention, the Superintendent or designee shall offer programs of direct, systematic, and intensive supplemental instruction in accordance with Education Code 37252.2 and Board policy.

*(cf. 6179 - Supplemental Instruction)*

*Legal Reference: (see next page)*

**PROMOTION/ACCELERATION/RETENTION (continued)***Legal Reference:*EDUCATION CODE*37252-37254.1 Supplemental instruction**41505-41508 Pupil Retention Block Grant**46300 Method of computing ADA**48011 Promotion/retention following one year of kindergarten**48070-48070.5 Promotion and retention**48431.6 Required systematic review of students and grading**56345 Elements of individualized education plan**60641-60648 Standardized Testing and Reporting Program**60850-60859 Exit examination*CODE OF REGULATIONS, TITLE 5*200-202 Admission and exclusion of students**Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION MANAGEMENT ADVISORIES*0900.90 Changes in Law Concerning Eligibility for Admission to Kindergarten 90-10*CDE PUBLICATIONS*Performance Level Tables for the California Standards Tests and the California Alternative Performance Assessment**Parental Agreement Form: Agreement for Pupil to Continue in Kindergarten*LEGISLATIVE COUNSEL'S OPINION*Promotion and Retention #21610*WEB SITES*CSBA: <http://www.csba.org>**California Department of Education: <http://www.cde.ca.gov>*

**Students**

AR 5123(a)

**PROMOTION/ACCELERATION/RETENTION****Continuation in Kindergarten**

Students who have completed one year of kindergarten shall be admitted to first grade unless the parent/guardian and the Superintendent or designee agree that the student shall continue in kindergarten for not more than one additional school year. (Education Code 48011)

Whenever a student continues in kindergarten for an additional year, the Superintendent or designee shall secure an agreement, signed by the parent/guardian, stating that the student shall continue in kindergarten for not more than one additional school year. (Education Code 46300)

**Retention at Other Grade Levels**

The Superintendent or designee shall identify students who should be retained or who are at risk of being retained at the following grade levels: (Education Code 48070.5)

1. Between grades 2 and 3
2. Between grades 3 and 4
3. Between grades 4 and 5
4. Between the end of the 5<sup>th</sup> grade and the beginning of the 6<sup>th</sup> grade
5. Between the end of the 8<sup>th</sup> grade and the beginning of 9<sup>th</sup> grade

Students between grades 2 and 3 and grades 3 and 4 shall be identified primarily on the basis of their level of proficiency in reading. Proficiency in reading, English language arts and mathematics shall be the basis for identifying students between grades 4 and 5, between intermediate and middle school grades, and between middle school grades and high school grades. (Education Code 48070.5)

*(cf. 6142.91 - Reading/Language Arts Instruction)*  
*(cf. 6142.92 - Mathematics Instruction)*

Students shall be identified on the basis of either statewide assessment results or grades and other indicators of academic achievement, as established by Board policy.

*(cf. 5121 - Grades/Evaluation of Student Achievement)*  
*(cf. 6162.5 - Student Assessment)*

**PROMOTION/ACCELERATION/RETENTION** (continued)

If a student is identified as performing below the minimum standard for promotion, the student shall be retained in his/her current grade level unless the student's regular classroom teacher determines, in writing, that retention is not the appropriate intervention for the student's academic deficiencies. This determination shall specify the reasons that retention is not appropriate for the student and shall include recommendations for interventions other than retention that, in the opinion of the teacher, are necessary to assist the student in attaining acceptable levels of academic achievement. (Education Code 48070.5)

If the teacher's recommendation to promote is contingent on the student's participation in a summer school or interim session remediation program, the student's academic performance shall be reassessed at the end of the remediation program, and the decision to retain or promote the student shall be reevaluated at that time. The teacher's evaluation shall be provided to and discussed with the student's parents/guardians and the principal before any final determination of retention or promotion. (Education Code 48070.5)

*(cf. 6177 - Summer School)*

*(cf. 6179 - Supplemental Instruction)*

If the student does not have a single regular classroom teacher, the principal or designee shall specify the teacher(s) responsible for the decision to promote or retain the student. (Education Code 48070.5)

When a student is identified as being at risk of retention, the Superintendent or designee shall so notify the student's parent/guardian as early in the school year as practicable. The student's parent/guardian shall be provided an opportunity to consult with the teacher(s) responsible for the decision to promote or retain the student. (Education Code 48070.5)

*(cf. 5145.6 - Parental Notifications)*

The teacher's decision to promote or retain a student may be appealed consistent with Board of Education policy, administrative regulation and law.

The burden shall be on the appealing party to show why the teacher's decision should be overruled. (Education Code 48070.5)

To appeal a teacher's decision, the appealing party shall submit a written request to the Superintendent or designee specifying the reasons that the teacher's decision should be overruled. The appeal must be initiated within 10 school days of the determination of retention or promotion.

The teacher shall be provided an opportunity to state orally and/or in writing the criteria on which his/her decision was based.

AR 5123(c)

**PROMOTION/ACCELERATION/RETENTION (continued)**

Within 30 days of receiving the request, the Superintendent or designee shall determine whether or not to overrule the teacher's decision. Prior to making this determination, the Superintendent or designee may meet with the appealing party and the teacher. If the Superintendent or designee determines that the appealing party has overwhelmingly proven that the teacher's decision should be overruled, he/she shall overrule the teacher's decision.

The Superintendent or designee's determination may be appealed by submitting a written appeal to the Board within 15 school days. Within 30 days of receipt of a written appeal, the Board shall meet in closed session to decide the appeal. The Board's decision may be made on the basis of documentation prepared as part of the appeal process or, at the discretion of the Board, the Board may also meet with the appealing party, the teacher and the Superintendent or designee to decide the appeal. The decision of the Board shall be final.

*(cf. 9321 - Closed Session Purposes and Agendas)*  
*(cf. 9321.1 - Closed Session Actions and Reports)*

If the decision of the Board is unfavorable to the appealing party, he/she shall have the right to submit a written statement of objections which shall become part of the student's record.

*(cf. 5125 - Student Records)*  
*(cf. 5125.3 - Challenging Student Records)*

Regulation  
approved:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California

**Students**

BP 5125(a)

**STUDENT RECORDS**

The Board of Education recognizes the importance of keeping accurate, comprehensive student records as required by law. Procedures for maintaining the confidentiality of student records shall be consistent with state and federal law.

The Superintendent or designee shall establish regulations governing the identification, description and security of student records, as well as timely access for authorized persons. These regulations shall ensure parental rights to review, inspect and copy student records and shall protect the student and the student's family from invasion of privacy.

*(cf. 3580 - District Records)*

*(cf. 4040 - Employee Use of Technology)*

*(cf. 5125.1 - Release of Directory Information)*

*(cf. 5125.2 - Withholding Grades, Diploma or Transcripts)*

*(cf. 5125.3 - Challenging Student Records)*

The Superintendent or designee shall designate a certificated employee to serve as custodian of records, with responsibility for student records at the district level. At each school, the principal or a certificated designee shall act as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

*Legal Reference: (see next page)*

**STUDENT RECORDS (continued)***Legal Reference:*EDUCATION CODE

- 48201 *Student records for transfer students who have been suspended/expelled*  
 48904-48904.3 *Withholding grades, diplomas, or transcripts of pupils causing property damage or injury; transfer of pupils to new school districts; notice to rescind decision to withhold*  
 48918 *Rules governing expulsion procedures*  
 49060-49079 *Pupil records*  
 49091.14 *Parental review of curriculum*  
 51747 *Independent study programs*  
 56050 *Surrogate parents*  
 56055 *Foster parents*

CODE OF CIVIL PROCEDURE

- 1985.3 *Subpoena duces tecum*

FAMILY CODE

- 3025 *Access to records by noncustodial parents*

GOVERNMENT CODE

- 6252-6260 *Inspection of public records*

HEALTH AND SAFETY CODE

- 120440 *Immunizations; disclosure of information*

WELFARE AND INSTITUTIONS CODE

- 681 *Truancy petitions*

- 16010 *Health and education records of a minor*

CODE OF REGULATIONS, TITLE 5

- 430-438 *Individual pupil records*

- 16020-16027 *Destruction of records of school districts*

UNITED STATES CODE, TITLE 20

- 1232g *Family Educational Rights and Privacy Act*

CODE OF FEDERAL REGULATIONS, TITLE 34

- 99.1-99.67 *Family Educational Rights and Privacy*

- 300.500 *Definition of "personally identifiable"*

- 300.501 *Opportunity to examine records for parents of student with disability*

- 300.573 *Destruction of information*

COURT DECISIONS

- Falvo v. Owasso Independent School District, 220 F.3d. 1200 (10th Cir. 2000)*

*Management Resources:*WEB SITES

- U.S. Department of Education, Family Policy Compliance Office,  
<http://www.ed.gov/policy/gen/guid/fpc/index.html>*

**Students**

AR 5125(a)

**STUDENT RECORDS**

Note: 5 CCR 431 **mandates** the district to establish written procedures enumerating and describing the student records it collects and maintains.

**Definitions**

*Student records* are any items of information gathered within or outside the district that are directly related to an identifiable student and maintained by the district or required to be maintained by an employee in the performance of his/her duties. Any information maintained for the purpose of second-party review is considered a student record. A student record may be recorded in handwriting, print, computer media, video or audio tape, film, microfilm, microfiche, or by other means. Student records include the student's health record. (34 CFR 99.3; Education Code 49061, 49062; 5 CCR 430)

*Student records* do not include: (34 CFR 99.3; Education Code 49061, 49062)

1. Directory information

(*cf.* 5125.1 - *Release of Directory Information*)

2. Informal notes compiled by a school officer or employee which remain in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute

Note: In October 2007, the U.S. Department of Education (USDOE) issued guidance (Balancing Student Privacy and School Safety) clarifying that records created by the district's law enforcement unit, as specified in item #3 below, are not considered student records under the Family Educational Rights and Privacy Act (FERPA) as long as the records were created for a law enforcement purpose. Thus, according to the guidance, student images appearing on security videotapes maintained by the district's law enforcement unit are not subject to FERPA.

The guidance, available on USDOE's web site, also explains that FERPA does not prohibit a school official from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation (e.g., overhearing a threat) and not from the student's educational records.

3. Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8

(*cf.* 3515 - *Campus Security*)

(*cf.* 3515.3 - *District Police/Security Department*)



AR 5125(b)

**STUDENT RECORDS** (continued)

*Mandatory permanent student records* are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation, or administrative directive. (5 CCR 430)

*Mandatory interim student records* are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed in accordance with state law, regulation, or administrative directive. (5 CCR 430)

*Permitted student records* are those records having clear importance only to the current educational process of the student. (5 CCR 430)

*Access* means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

*Disclosure* means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written, or electronic means. (34 CFR 99.3)

*Personally identifiable information* includes, but is not limited to, the student's name, the name of the student's parent/guardian or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, and a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

*Adult student* is a person who is or was enrolled in school and who is at least 18 years of age. (5 CCR 430)

*Parent/guardian* means a natural parent, an adopted parent, legal guardian, surrogate parent, or foster parent. (Education Code 49061, 56050, 56055)

Note: Education Code 49063 requires districts to list, in their annual student record notice, the criteria for defining "school officials and employees" and for determining "legitimate educational interest"; see section of this regulation entitled "Notification of Parents/Guardians." The criteria below should be revised to reflect any definitions developed by the district.

*School officials and employees* are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

*Custodian of records* is the employee responsible for the security of student records maintained by the district and for devising procedures for assuring that access to such records is limited to authorized persons. (5 CCR 433)

**STUDENT RECORDS** (continued)

*A legitimate educational interest* is one held by school officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records.

*County placing agency* means the county social service department or county probation department. (Education Code 49061)

**Persons Granted Access to Student Records Without Prior Written Consent**

Persons, agencies, or organizations specifically granted access rights to student records pursuant to law shall have access without prior written parental consent or judicial order. (Education Code 49076)

The following persons or agencies shall have absolute access to any and all student records in accordance with law:

1. Parents/guardians of students younger than age 18 (Education Code 49069)

Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent. (Family Code 3025)

2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records (34 CFR 99.3, 99.5)
3. Any person, agency, or organization authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077)

In addition, the following persons or agencies shall have access to those particular records that are relevant to the *legitimate educational interest* of the requester: (Education Code 49076)

1. Parents/guardians of a dependent student age 18 or older
2. Students age 16 or older or who have completed the 10th grade
3. School officials and employees
4. Members of a school attendance review board and any volunteer aide age 18 or older who has been investigated, selected, and trained by such a board to provide follow-up services to a referred student

AR 5125(d)

**STUDENT RECORDS** (continued)*(cf. 5113.1 - Truancy)*

5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided
6. Federal, state, and local officials, as needed for program audits or compliance with law
7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition
8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws
9. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation

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| Note: Education Code 49076 authorizes access to student records for judges and probation officers conducting truancy mediation, as specified below, or for presenting evidence in a truancy petition. Upon providing access, the district must notify the student's parent/guardian of the release of the information. See section of this regulation entitled "Access to Records by Authorized Persons." |
|---|

10. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for purposes of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681
11. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student

*(cf. 6173.1 - Education for Foster Youth)*

Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts and any individualized education program (IEP) developed and maintained by the district with respect to such students. (Education Code 49069.3)

*(cf. 6159 - Individualized Education Program)*

**STUDENT RECORDS** (continued)

When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of that student's records to another public school district or California private school. The information shall be released only to designated peace officers, federal criminal investigators, and federal law enforcement officers whose names have been submitted in writing by their law enforcement agency in accordance with the procedures specified in Education Code 49076.5. (Education Code 49076.5)

Note: In 2007, the USDOE issued guidance regarding FERPA and campus security. The guidance clarified that, as specified in item #1 below, the law allows school officials to release a student's education records without consent to "appropriate parties" to protect health or safety. Examples of "appropriate parties" include law enforcement officials, public health officials, and trained medical personnel. The guidance emphasizes that this limited exception is only available during the emergency situation.

The Superintendent or designee may release information from a student's records to the following: (34 CFR 99.36; Education Code 49076)

1. Appropriate persons in an emergency if the health and safety of the student or other persons are at stake
2. Accrediting associations
3. Under the conditions specified in Education Code 49076, organizations conducting studies on behalf of educational institutions or agencies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction
4. Officials and employees of private schools or school systems where the student is enrolled or intends to enroll

Note: Items #5 and 6 below are for use by districts that maintain high schools.

5. Agencies or organizations in connection with the student's application for or receipt of financial aid

However, information permitting the personal identification of a student or his/her parents/guardians for these purposes may be disclosed only as may be necessary to determine the eligibility of the student for financial aid, to determine the amount of financial aid, to determine the conditions which will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

6. County elections officials for the purpose of identifying students eligible to register to vote and offering such students an opportunity to register

AR 5125(f)

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

Note: Health and Safety Code 120440 authorizes a district to share immunization information with local health departments and the California Department of Health Services (now the California Department of Public Health), as specified below. Pursuant to Health and Safety Code 120440, a district must notify a student's parent/guardian prior to releasing the information. See section of this regulation entitled "Access to Records by Authorized Persons."

The Superintendent or designee may release a student's immunization record information to local health departments operating countywide or regional immunization information and reminder systems and the California Department of Public Health. Prior to releasing such information, the Superintendent or designee shall notify the parent/guardian of his/her right to refuse to share the information as well the other information specified in law. The following information may be released: (Health and Safety Code 120440)

1. Name of the student and the student's parent/guardian
2. Student's gender
3. Student's date and place of birth
4. Types and dates of immunizations received
5. Manufacturer and lot number of the immunization received
6. Adverse reaction to the immunization
7. Other nonmedical information necessary to establish the student's unique identity and record

**Persons Granted Access to Student Records With Prior Written Consent**

Persons, agencies, or organizations not afforded access rights by law may be granted access only through written permission of the parent/guardian or adult student, or by judicial order. (Education Code 49075)

Only a parent/guardian having legal custody of the student may consent to the release of records to others. Either parent may grant consent if both parents notify the district, in writing, that such an agreement has been made. (Education Code 49061)

*(cf. 5021 - Noncustodial Parents)*

**STUDENT RECORDS** (continued)

Any person or agency granted access is prohibited from releasing information to another person or agency without written permission from the parent/guardian or adult student. (Education Code 49076)

**Access to Records by Authorized Persons**

Note: Education Code 49069 **mandates** procedures for notifying parents/guardians of the location of all official student records if not centrally located. The following paragraph may be expanded to include specific notification procedures.

Student records shall be maintained in a central file at the school attended by the student or, when records are maintained in different locations, a notation shall be placed in the central file indicating where other records may be found. Parents/guardians shall be notified of the location of student records if not centrally located. (Education Code 49069; 5 CCR 433)

To inspect, review, or obtain copies of student records, authorized persons shall submit a request to the custodian of records.

Authorized persons, organizations, or agencies from outside the school whose access requires consent from the parent/guardian or adult student shall submit their request, together with any required authorization, to the Superintendent or designee or the custodian of records. (5 CCR 435)

When prior written consent is required by law, the parent/guardian shall provide a signed and dated written consent before the district discloses the student record. Such consent may be given through electronic means in those cases where it can be authenticated. The consent shall specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. Upon request by the parent/guardian, the district shall provide him/her a copy of the records disclosed. (34 CFR 99.30)

Note: Education Code 49069 **mandates** procedures for the availability of qualified certificated personnel to interpret records when requested. The following paragraph may be expanded to include specific procedures for persons to request and receive the assistance of certificated personnel.

Qualified certificated personnel shall be available to interpret records when requested. (Education Code 49069)

Note: 5 CCR 431 **mandates** districts to establish written procedures to assure the security of student records.

The custodian of records shall be responsible for the security of student records and shall assure that access is limited to authorized persons. (5 CCR 433)

AR 5125(h)

**STUDENT RECORDS** (continued)

The custodian of records or the Superintendent or designee shall prevent the alteration, damage, or loss of records during inspection. (5 CCR 435)

Prior to disclosing a record pursuant to a court order or subpoena, the Superintendent or designee shall, unless otherwise instructed by the court, give the parent/guardian or adult student at least three days' notice of the name of the requesting agency and the specific record requested if lawfully possible within the requirements of the judicial order. (34 CFR 99.31; 5 CCR 435)

Note: 34 CFR 99.34 requires the district to make a reasonable attempt to notify the parent/guardian or adult student at the last known address when the district discloses certain information as described in the following paragraph. However, if the district includes a statement in its annual parental notification that the district may forward education records under these circumstances, it is not obligated to make this effort to individually notify parents/guardians or adult students. The following **optional** paragraph may be deleted by districts that include such a statement in their parental notifications. See section in this regulation entitled "Notification of Parents/Guardians."

When the district discloses personally identifiable information to officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll, the Superintendent or designee shall make a reasonable attempt to notify the parent/guardian or adult student at his/her last known address, provide a copy of the record that was disclosed, and give him/her an opportunity for a hearing to challenge the record. (34 CFR 99.34)

Note: Pursuant to Education Code 49076, judges or probation officers may access student records for the purpose of conducting a truancy mediation program or presenting evidence in a truancy petition; see section of this regulation entitled "Persons Granted Access to Student Records Without Prior Written Consent." Education Code 49076 requires that these judges or probation officers certify in writing to the district that the student information will be used only for truancy purposes. Upon releasing the information, the district must notify the student's parent/guardian as specified below.

Upon releasing student information to a judge or probation officer for the purpose of conducting a truancy mediation program or presenting evidence in a truancy petition, the Superintendent or designee shall inform, or provide written notification to, the student's parent/guardian within 24 hours. (Education Code 49076)

Note: Health and Safety Code 120440 authorizes districts to release a student's immunization record to either the county health department or California Department of Health Services (now the Department of Public Health); see section of this regulation entitled "Persons Granted Access to Student Records Without Prior Written Consent." Prior to this information release, Health and Safety Code 120440 requires districts to notify the student's parent/guardian and authorizes the parent/guardian to refuse the release of the information, as specified below.

If the district is planning to release a student's immunization information to the county health department or California Department of Public Health, the Superintendent or designee shall inform the student's parents/guardians of the following: (Health and Safety Code 120440)

**STUDENT RECORDS** (continued)

1. The type of information that will be shared
2. The name and address of the agency with which the district will share the information
3. That any shared information shall be treated as confidential and shall be used to share only with each other and, upon request, with health care providers, child care facilities, family child care homes, service providers for the Women, Infants and Children (WIC) food program, county welfare departments, foster care agencies, and health care plans
4. That the information may be used only to provide immunization service; to provide or facilitate third-party payer payments for immunizations; and/or to compile and disseminate statistical information on immunization status on groups of people, without identifying the student
5. That the parent/guardian has the right to examine any immunization-related information shared in this manner and to correct any errors
6. That the parent/guardian may refuse to allow this information to be shared

**Access Log**

A log shall be maintained for each student's record which lists all persons, agencies, or organizations requesting or receiving information from the records and the *legitimate educational interest* of the requester. (Education Code 49064)

In every instance of inspection by persons who do not have assigned educational responsibility, the custodian of records shall make an entry in the log indicating the record inspected, the name of the person granted access, the reason access was granted, and the time and circumstances of inspection. (5 CCR 435)

The log does not need to record access by: (Education Code 49064)

1. Parents/guardians or adult students
2. Students 16 years of age or older or who have completed the 10th grade
3. Parties obtaining district-approved directory information

(cf. 5125.1 - Release of Directory Information)

4. Parties who provide written parental consent, in which case the consent notice shall be filed with the record pursuant to Education Code 49075



AR 5125(j)

**STUDENT RECORDS** (continued)

5. School officials or employees who have a *legitimate educational interest*

The log shall be accessible only to the parent/guardian, adult student, dependent adult student, student age 16 years or older or who has completed the 10th grade, custodian of records, and certain state/federal officials. (Education Code 49064; 5 CCR 432)

**Duplication of Student Records**

Note: Education Code 49069 **mandates** that the district adopt procedures for granting parent/guardian requests for copies of student records pursuant to Education Code 49065.

To provide copies of any student record, the district shall charge a reasonable fee not to exceed the actual cost of furnishing the copies. No charge shall be made for providing up to two transcripts or up to two verifications of various records for any former student. No charge shall be made to locate or retrieve any student record. (Education Code 49065)

**Changes to Student Records**

No additions except routine updating shall be made to a student's record after high school graduation or permanent departure without prior consent of the parent/guardian or adult student. (5 CCR 437)

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record. (Education Code 49061)

*(cf. 5125.3 - Challenging Student Records)*

**Retention and Destruction of Student Records**

All anecdotal information and assessment reports maintained as student records shall be dated and signed by the individual who originated the data. (5 CCR 431)

The following *mandatory permanent student records* shall be kept indefinitely: (5 CCR 432, 437)

1. Legal name of student
2. Date and place of birth and method of verifying birth date

*(cf. 5111 - Admission)*

3. Sex of student

**STUDENT RECORDS** (continued)

4. Name and address of parent/guardian of minor student
  - a. Address of minor student if different from the above
  - b. Annual verification of parent/guardian's name and address and student's residence

*(cf. 5111.1 - District Residency)*

*(cf. 5111.12 - Residency Based on Parent/Guardian Employment)*

*(cf. 5111.13 - Residency for Homeless Children)*

5. Entrance and departure date of each school year and for any summer session or other extra session
6. Subjects taken during each year, half-year, summer session, or quarter, and marks or credits given

*(cf. 5121 - Grades/Evaluation of Student Achievement)*

7. Verification of or exemption from required immunizations

*(cf. 5141.31 - Immunizations)*

8. Date of high school graduation or equivalent

*Mandatory interim student records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district. These records include: (Education Code 48918, 51747; 5 CCR 432, 437, 16027)*

1. Expulsion orders and the causes therefore

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

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

2. A log identifying persons or agencies who request or receive information from the student record
3. Health information, including verification or waiver of the health screening for school entry

*(cf. 5141.32 - Health Screening for School Entry)*

AR 5125(l)

**STUDENT RECORDS** (continued)

4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence of eligibility for admission or discharge

*(cf. 6159 - Individualized Education Program)*

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

5. Language training records

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

6. Progress slips/notices required by Education Code 49066 and 49067

7. Parental restrictions/stipulations regarding access to directory information

8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action

9. Parent/guardian authorization or denial of student participation in specific programs

10. Results of standardized tests administered within the past three years

*(cf. 6162.51 - Standardized Testing and Reporting Program)*

*(cf. 6162.52 - High School Exit Examination)*

11. Written findings resulting from an evaluation conducted to determine whether it is in a student's best interest to remain in independent study

*(cf. 6158 - Independent Study)*

*Permitted student records* may be destroyed six months after the student completes or withdraws from the educational program, including: (5 CCR 432, 437)

1. Objective counselor/teacher ratings
2. Standardized test results older than three years
3. Routine disciplinary data

*(cf. 5144 - Discipline)*

4. Verified reports of relevant behavioral patterns
5. All disciplinary notices

**STUDENT RECORDS** (continued)

## 6. Supplementary attendance records

Records shall be destroyed in a way that assures they will not be available to possible public inspection in the process of destruction. (5 CCR 437)

**Transfer of Student Records**

If a student transfers into this district from any other school district or a private school, the Superintendent or designee shall inform the parent/guardian of his/her rights regarding student records, including the right to review, challenge, and receive a copy of student records. (Education Code 49068; 5 CCR 438)

Note: Education Code 48201 requires districts to request records of a transferring student regarding acts that resulted in the student's suspension or expulsion from the previous school, as specified below. Once the record is received, the Superintendent or designee must inform the student's teachers of the acts; see AR 4158/4258/4358 - Employee Security.

When a student transfers into this district from another, the Superintendent or designee shall request that the student's previous district provide any records, either maintained by that district in the ordinary course of business or received from a law enforcement agency, regarding acts committed by the transferring student that resulted in his/her suspension or expulsion. (Education Code 48201)

(cf. 4158/4258/4358 - Employee Security)

When a student transfers from this district to another school district or to a private school, the Superintendent or designee shall forward a copy of the student's *mandatory permanent record* as requested by the other district or private school. The original record or a copy shall be retained permanently by this district. If the transfer is to another California public school, the student's entire *mandatory interim record* shall also be forwarded. If the transfer is out of state or to a private school, the *mandatory interim record* may be forwarded. *Permitted student records* may be forwarded to any other district or private school. (5 CCR 438)

Upon receiving a request from an admitting school for a student's records, the district shall also forward any expulsion order and the causes for the expulsion. (Education Code 48918)

Upon receiving a request from a county placing agency to transfer a student in foster care out of a district school, the Superintendent or designee shall transfer the student's records to the next educational placement within two business days. (Education Code 49069.5)

All student records shall be updated before they are transferred. (5 CCR 438)

Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or parent/guardian. (5 CCR 438)

AR 5125(n)

**STUDENT RECORDS** (continued)

If the district is withholding grades, diploma, or transcripts from the student because of his/her damage or loss of school property, this information shall be sent to the requesting district along with the student's records.

(*cf. 5125.2 - Withholding Grades, Diploma or Transcripts*)

**Notification of Parents/Guardians**

Upon any student's initial enrollment, and at the beginning of each year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents/guardians or eligible students who are disabled. (34 CFR 99.7; Education Code 49063)

(*cf. 5145.6 - Parental Notifications*)

The notice shall include: (34 CFR 99.7, 99.34; Education Code 49063)

1. The types of student records kept by the district and the information contained therein
2. The title(s) of the official(s) responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. District criteria for defining *school officials and employees* and for determining *legitimate educational interest*
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records and the procedures for doing so
7. The right to challenge and the procedures for challenging the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights

(*cf. 5125.3 - Challenging Student Records*)

8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073
10. The right to consent to disclosures of *personally identifiable information* contained in the student's records except when disclosure without consent is authorized by law

**STUDENT RECORDS** (continued)

11. The availability of the curriculum prospectus developed pursuant to Education Code 49091.14 containing the titles, descriptions, and instructional aims of every course offered by the school

*(cf. 5020 - Parent Rights and Responsibilities)*

12. Any other rights and requirements set forth in Education Code 49060-49078, and the right of parents/guardians to file a complaint with the United States Department of Education concerning an alleged failure by the district to comply with 20 USC 1232g

Note: Pursuant to 34 CFR 99.34, if the district's annual notification contains the information described in **optional** item #13 below, the district does not need to attempt to individually notify a parent/guardian or adult student when the district discloses an education record to officials of another school, school system, or postsecondary institution. See section of this regulation entitled "Access to Records by Authorized Persons."

13. A statement that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll

**Students**

AR 5144.1(a)

**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 Board of Education for students of the same grade level
2. Referral to a certificated employee designated by the principal to advise students
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. 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 personnel. (Education Code 48925)

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

*School day* means a day upon which the schools of the district 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 site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal'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'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(t))

**Notice of Regulations**

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

(cf. 5144 - Discipline)  
(cf. 5145.6 - Parental Notifications)

**SUSPENSION AND EXPULSION/DUE PROCESS** (continued)**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 employee~~ the Superintendent or designee with the principal or designee's concurrence. (Education Code 48900(b))

*(cf. 5131 - Conduct)*

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

3. Unlawfully possessed, used, sold, 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, alcoholic beverage, or intoxicant. (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion. (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property. (Education Code 48900(f))
7. Stole or attempted to steal school property or private property. (Education Code 48900(g))



AR 5144.1(c)

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

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 personnel engaged in the performance of their duties. (Education Code 48900(k))
12. Knowingly received stolen school property or private property. (Education Code 48900(l))
13. Possessed an imitation firearm. (Education Code 48900(m))  
  
*Imitation firearm* means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))
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 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))
17. Engaged in, or attempted to engage in, hazing. (Education Code 48900(q))

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

*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 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 engaged in any of the following activities:

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*)

AR 5144.1(e)

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

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

*(cf. 5145.3 - Nondiscrimination/Harassment)*

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 district school under the jurisdiction of the Superintendent or principal 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
3. During the lunch period, whether on or off the school campus

*(cf. 5112.5 - Open/Closed Campus)*

4. During, going to, or coming from a school-sponsored activity

The Superintendent or principal 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(u))

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

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

*(cf. 5113 - Absences and Excuses)*

*(cf. 5113.1 - Truancy)*

**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 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 or designee and send the student to the principal 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 may 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 may 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. (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 Board 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 shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

AR 5144.1(g)

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

This notice shall also:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. Ask the parent/guardian to meet with the principal after the visit and before leaving school, as required by Education Code 48900.1

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

The Superintendent or principal 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 Superintendent or principal shall immediately suspend any student found at school or at a school activity to be: (Education Code 48915)

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, 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. 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 or principal 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)

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

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 district 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 may be preceded by an informal conference conducted by the Superintendent, principal, or principal's designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and 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 Superintendent, principal, or designee 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 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 the 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 or designee of the school in which the student is enrolled at the time of the misbehavior. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school 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)

AR 5144.1(i)

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

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 school 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 the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board 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 Board**

The Board 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)

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

The Board 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 Board 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 Board 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 Board'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 may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)

1. The supervised suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The supervised suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. Each student shall be responsible for contacting his/her teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.



AR 5144.1(k)

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

At the time a student is assigned to a supervised suspension classroom, the principal 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 Board. The Board 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 Board 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 principal, Superintendent or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a district employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal 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. Possessing an explosive as defined in 18 USC 921

Upon finding that the student committed any of the above acts, the Board shall expel the student. (Education Code 48915)

**Student's Right to Expulsion Hearing**

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 Board's discretion. (Education Code 48918(a))

If the Board 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))

AR 5144.1(m)

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

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board 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

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.

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

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.

**Conduct of Expulsion Hearing**

1. **Closed Session:** Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board 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 Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board 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))

AR 5144.1(o)

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

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 Board 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 Board 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 Board in closed session, or in open session if so requested by the student, before the meeting. The Board's decision in response to such an objection shall be final and binding. (Education Code 48918(i))

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

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 Board 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))

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

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 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.

AR 5144.1(q)

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

- 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 Board'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 Board 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 Board 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 Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board 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 Board 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 Board. 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 Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board 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 Board may order. (Education Code 48918(f))

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

The Board 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 Board**

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

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

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



AR 5144.1(s)

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

Upon ordering an expulsion, the Board 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 Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during the summer session or the intersession period of a year-round program, the Board 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 Board 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

**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 Board 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)

**SUSPENSION AND EXPULSION/DUE PROCESS (continued)****Decision Not to Enforce Expulsion Order**

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

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

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

1. The Board 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 Board'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 Board 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 Board shall reinstate the student in a district school. Upon reinstatement, the Board 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 Board. (Education Code 48918(j)).

AR 5144.1(u)

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

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 Board. (Education Code 48917)

**Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board'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. 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 Board 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

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

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 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 Board 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 Board his/her recommendation regarding readmission. The Board 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 Board's decision regarding readmission.
5. The Board 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 Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially

AR 5144.1(w)

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

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 Board 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 Board's determination of the educational program which the Board 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 Records**

The Board 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))

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

Regulation  
approved:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California

**Students**

BP 5145.11(a)

**QUESTIONING AND APPREHENSION**

Law enforcement officers have the right to interview and question students on school premises. When such an interview is requested, the principal 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 or designee shall accommodate the process in a way that causes the least possible disruption to the school, gives the student appropriate privacy, and models exemplary cooperation with community law enforcement authorities.

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

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

If the law officer finds it necessary to remove the student from school, the principal or designee shall first ascertain the reason for such action. Upon releasing the student, the principal 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 school, the Board 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)*

BP 5145.11(b)

**QUESTIONING AND APPREHENSION (continued)***Legal Reference:*EDUCATION CODE44807 *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 CODE830-832.8 *re peace officers*833-851.85 *re arrests*1328 *Service of subpoena*CODE OF REGULATIONS, TITLE 5303 *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 OPINIONS54 *Ops. Cal. Atty. Gen. 96 (1971)*34 *Ops. Cal. Atty. Gen. 93 (1959)*32 *Ops. Cal. Atty. Gen. 96 (1958)*

**Students**

AR 5145.11

**QUESTIONING AND APPREHENSION****Questioning on School Grounds**

The school 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 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 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 or designee shall immediately attempt to 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 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 Superintendent 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 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 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.

Regulation  
approved:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California



**Students**

BP 5145.12(a)

**SEARCH AND SEIZURE**

The Board of Education is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items.

*(cf. 0450 - Comprehensive Safety Plan)*  
*(cf. 3515 - Campus Security)*  
*(cf. 3515.3 - District Police/Security Department)*  
*(cf. 5131 - Conduct)*  
*(cf. 5131.7 - Weapons and Dangerous Instruments)*  
*(cf. 5144.1 - Suspension and Expulsion/Due Process)*

The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*  
*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

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

**Individual Searches**

School officials may search any individual student, his/her property, or district property under his/her control when there is a reasonable suspicion that the search will uncover evidence that he/she is violating the law, Board policy, administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation. The types of student property that may be searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

**SEARCH AND SEIZURE (continued)**

Any search of a student, his/her property, or district property under his/her control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

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 district employees.

The principal 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)*

**Searches of Multiple Student Lockers/Desks**

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

**Breathalyzer - Alcohol and Other Drugs**

The Board believes that the use of alcohol or other drugs adversely affects a student's ability to achieve academic success, is physically and emotionally harmful, and has serious social and legal consequences.

To promote an environment conducive to learning, safety and to help prevent accidents, injuries, and disruptions resulting from the misuse of alcohol and drugs by students, the district hereby authorizes the Superintendent or designee to enact an alcohol testing program. This program shall, at minimum, comply with all laws and regulations which permit such testing. Testing may include the use of a breathalyzer, after reasonable suspicion has been formed that the student has consumed alcohol.

BP 5145.12(c)

**SEARCH AND SEIZURE (continued)**

In addition, staff shall notify the principal or designee immediately upon suspecting a student is selling, carrying, providing, or using alcohol or other drugs.

*Legal Reference:*EDUCATION CODE32280-32289 *School safety plans*35160 *Authority of governing boards*35160.1 *Broad authority of school districts*48900-48927 *Suspension and expulsion*49050-49051 *Searches by school employees*49330-49334 *Injurious objects*PENAL CODE626.9 *Firearms*626.10 *Dirks, daggers, knives or razor*CALIFORNIA CONSTITUTION*Article I, Section 28(c) Right to Safe Schools*COURT DECISIONS*Redding v. Safford Unified School District, (9th Cir. 2008) 531 F.3d 1071**B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260**Jennings v. Joshua Independent School District, (5th Cir. 1989) 877 F.2d 313**O'Connor v. Ortega, (1987) 480 U.S. 709**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 OPINIONS83 *Ops. Cal. Atty. Gen.* 257 (2001)75 *Ops. Cal. Atty. Gen.* 155 (1992)*Management Resources:*NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS*The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999*WEB SITESCSBA: <http://www.csba.org>California Attorney General's Office: <http://caag.state.ca.us>California Department of Education, Safe Schools: <http://www.cde.ca.gov/lss>National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

**Students**

BP 5145.3(a)

**NONDISCRIMINATION/HARASSMENT**

District 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 Board of Education 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 district may provide male and female students with separate shower rooms and 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 Board prohibits intimidation or harassment of any student by any employee, student or other person in the district. 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))*

The Board hereby designates the following position as Coordinator for Nondiscrimination to handle complaints regarding discrimination and inquiries regarding the district's nondiscrimination policies:

Superintendent  
904 Talbot Avenue  
Albany, CA 94706  
510-558-3766

BP 5145.3(b)

**NONDISCRIMINATION/HARASSMENT** (continued)*(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 or any other staff member. Any student who observes an incident of harassment should report the harassment to a school 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 Superintendent 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*PENAL CODE*422.55 Interference with constitutional right or privilege*CODE OF REGULATIONS, TITLE 5*4621 District policies and procedures**4622 Notice requirements**4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance*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>*

**Students**

BP 5145.6(a)

## **PARENTAL NOTIFICATIONS**

The Board of Education recognizes that notifications are essential to effective communication between the school and the home. The Superintendent 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 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 district's printed notifications, the principal 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**

BP 5145.7(a)

**SEXUAL HARASSMENT**

The Board of Education is committed to maintaining an educational environment that is free from harassment. The Board prohibits sexual harassment of students by other students, employees or other persons, at school or at school-sponsored or school-related activities. The Board also prohibits retaliatory behavior or action against persons who complain, testify, assist or otherwise participate in the complaint process established pursuant to this policy and the administrative regulation.

**Instruction/Information**

The Superintendent or designee shall ensure that all district 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 gender
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 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 subjected to sexual harassment shall immediately contact his/her teacher or any other employee. A school employee to whom a complaint is made shall, within 24 hours of receiving the complaint, report it to the principal or designee.

Any school employee who observes any incident of sexual harassment involving a student shall report this observation to the principal or designee, whether or not the victim files a complaint.

In any case of sexual harassment involving the principal or any other district employee to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall report to the nondiscrimination coordinator or the Superintendent or designee.

**SEXUAL HARASSMENT** (continued)

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*  
*(cf. 5141.4 - Child Abuse Prevention and Reporting)*  
*(cf. 5145.3 - Nondiscrimination/Harassment)*

The principal or designee to whom a complaint of sexual harassment is reported shall immediately investigate the complaint in accordance with administrative regulation. Where the principal or designee finds that sexual harassment occurred, he/she shall take prompt, appropriate action to end the harassment and address its effects on the victim. The principal or designee shall also advise the victim of any other remedies that may be available. The principal or designee shall file a report with the Superintendent or designee and refer the matter to law enforcement authorities, where required.

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

**Disciplinary Measures**

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 through 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.

**Record-Keeping**

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 its schools.

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)*

*Legal Reference: (see next page)*

BP 5145.7(c)

**SEXUAL HARASSMENT (continued)***Legal Reference:*EDUCATION CODE*200-262.4 Prohibition of discrimination on the basis of sex**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*CODE OF REGULATIONS, TITLE 5*4900-4965 Nondiscrimination in elementary and secondary education programs receiving state financial assistance*UNITED STATES CODE, TITLE 20*1681-1688 Title IX, Discrimination*UNITED STATES CODE, TITLE 42*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*Reese v. Jefferson School District, (2001) 208 F.3d 736**Davis v. Monroe County Board of Education, (1999) 526 U.S. 629**Gebser v. Lago Vista Independent School District, (1998) 118 S.Ct. 1989**Nabozny v. Podlesny, (1996, 7th Cir.) 92 F.3d 446**Doe v. Petaluma City School District, (1995, 9th Cir.) 54 F.3d 1447**Oona R.-S. etc. v. Santa Rosa City Schools et al, (1995) 890 F.Supp. 1452**Rosa H. v. San Elizario Ind. School District, (W.D. Tex. 1995) 887 F. Supp. 140, 143**Clyde K. v. Puyallup School District #3, (1994) 35 F.3d 1396**Patricia H. v. Berkeley Unified School District, (1993) 830 F.Supp. 1288**Franklin v. Gwinnet County Schools, (1992) 112 S. Ct. 1028**Kelson v. City of Springfield, Oregon, (1985, 9th Cir.) 767 F.2d 651**Management Resources:*OFFICE OF CIVIL RIGHTS AND NATIONAL ASSOCIATION OF ATTORNEYS GENERALProtecting Students from Harassment and Hate Crime: A Guide for Schools, January 1999OFFICE OF CIVIL RIGHTS' PUBLICATIONSRevised Sexual Harassment Guidance, January 2001Sexual Harassment Guidance, March 1997WEB SITESOCR: <http://www.ed.gov/offices/OCR>

**Students**

AR 5145.7(a)

**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 gender, in the educational setting, when: (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 district program or activity

Types of conduct which are prohibited in the district and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations or propositions
2. 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, notes, stories, drawings, pictures or gestures
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-gender class
7. Massaging, grabbing, fondling, stroking or brushing the body
8. Touching an individual's body or clothes in a sexual way
9. Purposefully cornering or blocking normal movements
10. Displaying sexually suggestive objects

AR 5145.7(b)

**SEXUAL HARASSMENT (continued)****Notifications**

A copy of the district'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 district 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 district publication that sets forth the school's or district's comprehensive rules, regulations, procedures and standards of conduct (Education Code 231.5)

**Investigation of Complaints at School (Site-Level Grievance Procedure)**

1. The principal or designee shall promptly investigate all complaints of sexual harassment. In so doing, he/she shall talk individually with:
  - a. The student who is complaining
  - b. The person accused of harassment
  - c. Anyone who witnessed the conduct complained of
  - d. Anyone mentioned as having related information
2. The student who is complaining shall have an opportunity to describe the incident, present witnesses and other evidence of the harassment, and put his/her complaint in writing.
3. The principal or designee shall discuss the complaint only with the people described above. When necessary to carry out his/her investigation or for other good reasons that apply to the particular situation, the principal or designee also may discuss the complaint with the following persons:
  - a. The Superintendent or designee

**SEXUAL HARASSMENT** (continued)

- b. The parent/guardian of the student who complained
- c. If the alleged harasser is a student, his/her parent/guardian
- d. A teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth
- e. Child protective agencies responsible for investigating child abuse reports

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

- f. Legal counsel for the district
4. When the student who complained and the alleged harasser so agree, the principal or designee 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.
  5. In reaching a decision about the complaint, the principal or designee 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
  6. To judge the severity of the harassment, the principal or designee may take into consideration:
    - a. How the misconduct affected one or more students' education
    - b. The type, frequency and duration of the misconduct
    - c. The number of persons involved
    - d. The age and gender of the person accused of harassment



AR 5145.7(d)

**SEXUAL HARASSMENT (continued)**

- e. The subject(s) of harassment
  - f. The place and situation where the incident occurred
  - g. Other incidents at the school, including incidents of harassment that were not related to gender
7. The principal or designee shall write a report of his/her findings, decision, and reasons for the decision and shall present this report to the student who complained and the person accused.
  8. The principal or designee shall give the Superintendent or designee a written report of the complaint and investigation. If the principal or designee verifies that sexual harassment occurred, this report shall describe the actions taken to end the harassment, address the effects of the harassment on the student harassed, and prevent retaliation or further harassment.
  9. Within two weeks after receiving the complaint, the principal or designee shall determine whether or not the student who complained has been further harassed. The principal or designee shall keep a record of this information and shall continue this follow-up.

**Enforcement**

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

1. Removing vulgar or offending graffiti.
2. Providing staff inservice and student instruction or counseling.
3. Notifying parents/guardians of the actions taken.
4. Notifying child protective services.
5. Taking appropriate disciplinary action. In addition, the principal or designee may take disciplinary measures against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

Regulation  
approved:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California

**Students**

BP 5145.9(a)

**HATE-MOTIVATED BEHAVIOR**

The Board of Education affirms the right of every student to be protected from hate-motivated behavior. It is the intent of the Board 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 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 or designee. If the student believes that the situation has not been remedied by the principal or designee, he/she may file a complaint in accordance with district 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, Superintendent or designee, and law enforcement, as appropriate. Students demonstrating hate-motivated behavior shall be subject to discipline in accordance with Board 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 district shall provide counseling and appropriate sensitivity training and diversity education for students exhibiting hate-motivated behavior. The district 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)*

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

BP 5145.9(b)

**HATE-MOTIVATED BEHAVIOR** (continued)*(cf. 4131 - Staff Development)**(cf. 4231 - Staff Development)**(cf. 4331 - Staff Development)*

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

At the beginning of each school year, students and staff shall receive a copy of the district's policy on hate-motivated behavior.

*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: Board of Education Strategies to Combat School Violence, 1995*ALAMEDA OFFICE OF EDUCATION & CALIFORNIA DEPARTMENT OF EDUCATIONPUBLICATIONS*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>*

Policy  
adopted:

**ALBANY UNIFIED SCHOOL DISTRICT**  
Albany, California

