

CALIFORNIA EDUCATION CODE FOR STUDENT DISCIPLINE

Students who display inappropriate behavior may be subject to suspension as outlined in the California State Education Code 48900 and 48915. A student may be suspended or expelled for acts which are related to school activity or attendance while on the school grounds, while going to or coming from school, during the lunch period whether on or off campus, and during or while going to or coming from a school sponsored activity.

EDUCATION CODE, SECTION 48900:

A student who has committed the following acts is subject to discipline by suspension or expulsion:

- (a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (a)(2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or any products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
(2) Except as provided in Section 48910, a pupil enrolled in Kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in Kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.
- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, 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.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or witness in a school disciplinary proceeding for the purpose of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, "hazing" means a method of initiation or pre-initiation into a pupil organization or body, whether or not the organization of 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 pupil. For purposes of this subdivision, "hazing" does not include athletic events or school-

sanctioned events.

- (r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:
- (1) "Bullying" means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
 - (A) Placing a reasonable pupil or pupils in fear of harm to that pupil's or those pupils' person or property.
 - (B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
 - (C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.
 - (D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.
 - (2) (A) "Electronic act" means the transmission, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication.
 - (i) A message, text, sound, or image.
 - (ii) A post on a social network Internet Web site including, but not limited to:
 - (I) Posting to or creating a burn page. "Burn page" means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).
 - (II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). "Credible impersonation" means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.
 - (III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.
 - (B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.
 - (3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.
- (s) A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following.
- (1) While on school grounds.
 - (2) While going to or coming from school.
 - (3) During the lunch period whether on or off the campus.
 - (4) During, or while going to or coming from, a school sponsored activity.
- (t) A pupil who aids or abets, as defined in Sec. 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to the provisions of this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily

injury shall be subject to discipline pursuant to subdivision (a).

EDUCATION CODE 48900.2: SEXUAL HARASSMENT:

In addition to the reasons specified in Section 48900, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has committed sexual harassment as defined in Section 212.5.

For the purpose of this chapter, the conduct described in Section 212.5 must be considered by a reasonable person of the same gender as the victim to be sufficiently severe or pervasive to have a negative impact upon the individual's academic performance or to create an intimidating, hostile, or offensive education environment. This section shall not apply to pupils enrolled in kindergarten and grades 1 to 3, inclusive. (Add. Stats. 1992, Ch. 909).

EDUCATION CODE 48900.3: HATE VIOLENCE:

In addition to the reasons specified in Sections 48900 and 48900.2 a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence.

EDUCATION CODE 48900.4: HARASSMENT, THREATS, OR INTIMIDATION:

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class-work, creating an intimidating or hostile educational environment.

A pupil may not be suspended or expelled for any of the acts enumerated unless that act is related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent or principal or occurring within any other school district. A pupil may be suspended or expelled for acts that are enumerated in this section and related to school activity or expelled for acts which are enumerated in this section and related to school activity or attendance that occur at any time, including, but not limited to, any of the following:

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

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any pupil who is truant, tardy, or otherwise absent from school activities.

EDUCATION CODE 48900.5: REQUIRED OTHER MEANS OF CORRECTION/EXCEPTIONS:

"At the very minimum...students who are threatened with removal from school, depriving them of the fundamental right to a publicly financed education, are entitled to notice of the grounds for the removal and an opportunity to be heard."

(Goss v. Lopez)

Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place the documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 560026, may be suspended, subject to Section 1415 of Title 20 of the United States code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of section 48900 or that the pupil's presence causes a danger to persons.

(b) Other means of correction include, but are not limited to, the following:

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the

pupil and his or her parents.

- (4) Referral for a comprehensive psychosocial or psycho educational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- (5) Enrollment in a program for teaching prosocial behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the school day on campus.
- (8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- (9) Any of the alternatives described in Section 48900.6. (Amend. Stats. 2012, Ch. 425)

EDUCATION CODE 48900.6: DISCIPLINARY ACTION/COMMUNITY SERVICE:

Instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, or the superintendent of schools, or the governing board, may require a pupil to perform community service on school grounds during non-school hours. For the purposes of this section "community service" may include, but is not limited to, work performed on school grounds in the areas of outdoor beautification, campus betterment, and teacher or peer assistance programs. This section shall not apply to instance where suspension or expulsion is required by this article. (Add. Stats. 1995, Ch. 972).

EDUCATION CODE 48900.7: SUSPENSION OR EXPULSION FOR TERRORISTIC THREATS:

- (a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.
- (b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$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, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family. (Add. Stats. 1997, Ch. 405)

EDUCATION CODE 48900.8: SUSPENSION, EXPULSION, PARENT NOTIFICATION AND STATE DEPARTMENT OF EDUCATION REPORT:

For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the State Department of Education, each school district shall specifically identify, by offense committed, in all appropriate official records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in subdivisions (a) to (o), inclusive, of subdivision (a) of, or paragraphs (1) to (4), inclusive of subdivision (c) of, Section 48915. (Add Stats. 1997, Ch637).

EDUCATION CODE SECTION 48915:

- (a) **Mandatory Recommendations, Permissive Expulsions:** Except as provided in subdivisions (c) and (e) the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent finds that expulsion is inappropriate, due to the particular circumstances or that an alternative means of correction would address the conduct.
 - (1)(A) Causing serious physical injury to another person, except in self-defense.

Penal Code 243 - Serious Bodily Injury, Definition - Partial Quotation

(f)(4) "Serious bodily injury" means a serious impairment of physical condition including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss of impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

- (1)(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (1)(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053 of Division 10 of the Health and Safety Code, except for either of the following:
 - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
 - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
- (1)(D) Robbery or extortion.
- (1)(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.
- (b) **Dual finding required for 48915(a) and 48900(a), (b), (c), (d) and (e):** Upon recommendation by the principal, superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board may order a pupil expelled upon finding that the pupil committed an act listed in subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of section 48900. A decision to expel shall be based on a finding of one or both of the following:
 - (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
 - (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
- (c) **Mandatory Expulsions (one year from date of expulsion):** Principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
 - (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a fire arm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district.
 - (2) Brandishing a knife at another person. As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade longer than 3 ½ inches, a folding knife with a blade (any size) that locks into place, or a razor with an unguarded blade.
 - (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code. (any amount)
 - (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
 - (5) Possession of an explosive.