

CLOVIS UNIFIED SCHOOL DISTRICT

DISTRICT ORGANIZATION & GOALS

Rights & Responsibilities

STUDENT DISCIPLINE

The California Education Code specifies the types of disciplinary action, which may be imposed by school districts and the methods by which such disciplinary actions will be implemented.

The Governing Board has directed the Superintendent to insure District staff implements student disciplinary actions in compliance with Governing Board Policy 2102 and appropriate statutes of the State of California.

I. Definitions of Terms Used in Matters of Student Discipline

- A. "Counseling" is a discussion between a school staff member and a student regarding the student's misconduct. Counseling may result in assignment of the student to serve detention or perform a limited number of hours of community service.
- B. "Detention" may require a student to report to a specified location, generally a classroom supervised by a credentialed staff member, during the student's recess period or lunch period for all but adequate time to use the restroom and get a drink or eat lunch, as appropriate, or for one hour after the end of the school day. The student is required to do class work during the time spent under staff supervision. (*Code of Regulations, Title 5, sections 307, 352 and 353, Education Code 44807.5.*)
- C. "School probation" is a limitation placed on a student's participation in school sponsored activities, both during school and non-school hours.

Students who are enrolled and attending a school operated by the Clovis Unified School District, and who maintain proper attendance, proper academic achievement, and proper behavior, are entitled to participate in all school-sponsored activities.

"School-sponsored" activities" include activities that are open to the general public and those activities restricted to students in good standing in their school of attendance.

Students who have been disorderly while in school attendance, who have committed a violation for which the appropriate disciplinary action is suspension with a recommendation for consideration for expulsion, or for an involuntarily transfer to a continuation school, are not in good standing. Students not in good standing are not authorized to attend any school-sponsored activity during the duration of their assignment to and attendance in a continuation school or alternative school.

- D. "Community Service" means those activities a student may be required to perform that are determined to be a benefit to the school. Community service must be performed on campus, or off campus with parental permission, during non school hours, and include: graffiti removal, removing trash from the school grounds, and other such activities. Community service may be assigned in lieu of other disciplinary actions. (*Education Code section 48900.6*)
- E. "Supervised Classroom" - is a designated alternative for a student who is eligible for suspension from school for any of the reasons enumerated in subdivisions (a) - (s) of Education Code section 48900 or sections 48900.2, 48900.3, 48900.4 or 48900.7 may be assigned, by the principal or the principal's designee, to a supervised classroom in lieu of

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suspension from school attendance, provided the student poses no imminent danger or threat to the campus, students, or staff, or if an action to expel the student has not been initiated. The student is responsible for contacting his/her teacher to receive regular classroom assignments and tests. (*Education Code section 48911.1.*)

- F. "Saturday School" is a supervised classroom maintained on Saturday.
1. Students may be authorized to attend Saturday school in lieu of suspension from school, or to make up class work, or unexcused absences. (*Education Code section 48264; Board Policy No. 3510.*)
 2. Students who are truant from school may be involuntarily assigned to attend Saturday School to make up the days missed. (*Education Code section 48264.5; Board Policy No. 3510.*)
- G. "Suspension" means removal of a student from ongoing instruction, for adjustment purposes. (*Education Code section 48925.*)

However, suspension does not mean:

1. Reassignment to another educational program or class at the same school where the student will receive continuing instruction for the minimum day applicable to such student.
 2. Referral of the student to a certificated employee designated by the principal to advise students.
 3. Removal from a class, but without reassignment to another class or program for the remainder of the class period without sending the student to the principal or principal's designee, provided such exclusion occurs no more than once every five consecutive school days.
 4. Releasing the student to the custody of the parent for a portion of a school day.
 5. Behavior management techniques called for in a disabled student's IEP.
 6. Reassignment within the requirements of a disabled student's IEP.
- H. "Expulsion" means removal of a student from attendance in current school of attendance and referral to a program of study that meets all of the following conditions: (*Education Code section 48915.*)
1. Is appropriately prepared to accommodate students who exhibit discipline problems.
 2. Is not provided at a comprehensive middle, junior or senior high school, or at any elementary school.
 3. Is not housed at the school site attended by the student at the time of suspension.

Expulsion does not mean involuntary transfer pursuant to Education Code section 48432.5.

- I. "Day" means a calendar day unless otherwise specifically provided.
- J. "School day" means a day upon which the schools of the District are in session (including during summer school) or weekdays during the summer recess.

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- K. “Student” includes a student’s parent or guardian.
- L. “Principal” means the identified chief administrator of the student’s school of attendance.
- M. “Principal’s designee” is any one or more administrators at the school site specifically designated by the principal, in writing, to assist with student disciplinary procedures. If there is not an administrator in addition to the principal at the school site, a certificated person at the school site may be specifically designated by the principal, in writing, as the “principal’s designee” to assist with disciplinary procedures. The principal may designate only one such person at a time as the principal’s primary designee for one school year.
- N. “Superintendent’s designee” is any one or more District staff designated by the Governing Board to assist with expulsion and other student discipline matters.
- O. “District” means the Clovis Unified School District.
- P. “Governing Board” means the Governing Board of the District. Governing Board and Board are synonymous throughout.
- Q. “Parent” means a student’s parent or legal guardian.
- R. “School property” includes, but is not limited to, electronic files and databases. (*Education Code Section 48900(u).*)
- S. “Firearm” means any device designed to be used as a weapon from which a projectile is expelled through a barrel by the force of any explosion or other form of combustion.

II. Suspension, Authority to Suspend, Limitations

- A. A teacher may suspend any student from the teacher’s class, for any of the acts listed in subdivision (a) - (t) of Education Code section 48900 for the day of the suspension and the day following. (*Education Code section 48910.*)
 - 1. A referral of a student by a teacher to a counselor or the principal’s designee for misconduct does not constitute a suspension from class.
 - 2. When a teacher elects to suspend a student from class, the teacher must comply with due process procedures including, parent notifications and meetings. See VII. Suspension Procedures.
 - 3. The teacher shall immediately report the suspension to the principal and send the student to the principal or designee for appropriate action.
 - 4. A student suspended from a class shall not be placed in another regular class during the period of suspension. However, if the student is assigned to more than one class per day, this subsection shall apply only to other regular classes scheduled at the same time as the class from which the student was suspended.
- B. The Governing Board, Superintendent, Superintendent’s designee, principal, or principal’s designee may suspend a student from school attendance for any of the acts listed in subdivisions (a) - (t) of Education Code section 48900 or sections 48900.2, 48900.3, 48900.4, or 48900.7 of the California Education Code, provided the student is within the jurisdiction of the principal at the time of the violation. Any suspension of a student from school attendance must be in compliance with appropriate due process

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procedures. See VII. Suspension Procedures. (*Education Code sections 48911 and 48912.*)

1. Such suspension may be for no more than five consecutive school days.
2. A student may not be suspended from school attendance for a total of more than twenty school days in any school year, unless for purposes of adjustment a student enrolls or is transferred to another regular school, an opportunity school, or continuation school or class, in which case, suspension shall not exceed thirty school days in any school year.
3. The Governing Board may suspend a student who is attending a continuation school or class for no longer than the remainder of a semester. Such suspension must be in compliance with appropriate due process procedures.
4. The Superintendent or the Superintendent's designee may extend the suspension of a student, pending an Administrative Expulsion Hearing.

III. Mandatory Notifications, Law Enforcement, Parent, and Teacher

The willful failure to make any report required by this section is an infraction punishable by a fine to be paid by the principal or principal's designee who is responsible for the failure of not more than five hundred dollars (\$500.00). (*Education Code section 48902(e).*)

- A. The principal or designee shall notify the appropriate law enforcement agency, prior to the suspension of any student for any act of the student, which may be in violation of section 245 of the California Penal Code. (*Education Code section 48902 (a).*)

Section 245 of the California Penal Code pertains to assault with a deadly weapon, a firearm, an instrument other than a firearm, or by any means of force likely to produce great bodily injury.

- B. The principal or designee shall notify the appropriate law enforcement agency, within one school day after suspension for any acts of the student, which may be in violation of subdivisions (c) or (d) of section 48900 of the California Education Code. (*Education Code section 48902 (b).*)

- C. The principal or designee shall notify the appropriate law enforcement agency within one school day after suspension, for any acts of the student which involve; possession for sale of narcotics or of a controlled substance or a violation of sections 626.9 or 626.10 of the California Penal Code. Law enforcement should be notified immediately, rather than waiting until after the fact. (*Education Code section 48902 (c).*)

Sections 626.9 and 626.10 of the California Penal Code pertain to possession of any firearm, dirk, dagger, locking bladed knife with a blade 2 ½ inches or greater in length, or razor, or any knife with a blade of 2 ½ inches or greater. Such items must be confiscated and retained in custody until released to law enforcement personnel.

- D. A report must be made to a law enforcement agency of any attack, assault on, or menacing of, any school employee by a student. (*Education Code section 44014.*)
- E. A report must be made to a law enforcement agency, when there is a directly communicated threat by a student or any person to inflict unlawful injury upon the person

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or property of a school employee to keep the employee from fulfilling any official duty. (*Education Code section 44014 and Penal Code section 71.*)

F. When a principal or other school official releases a student to a peace officer who is going to remove the minor student from the school premises, the school official shall take immediate steps to notify the parent or responsible party of the student.

1. Such notice will include the fact the student has been released to the officer, and the location where the student is reportedly being transported.
2. Except, when a student is placed in protective custody as a victim of suspected child abuse. In this case the Protective Services Social Worker or Police Officer will make the required notifications.

G. The principal or designee shall inform the teacher of each student who has engaged in, or is reasonably suspected to have engaged in, any acts described in section 48900 of the California Education Code, except for subdivision (h) of section 48900, possession or use of tobacco products. (*Education Code section 49079.*)

A school official or employee of a school district who knowingly fails to provide information about a student who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in section 48900, except for subdivision (h), is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months or by a fine not to exceed one thousand dollars, or both.

H. Any information received by a teacher pursuant to this section shall be received in confidence for the limited purpose for which it was provided, and shall not be further disseminated by the teacher.

I. A principal, the principal's designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) of Education Code section 48902 is not civilly or criminally liable as a result of making such a report unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report. (*Education Code section 48902 (d).*)

IV. Record of Student Suspensions, Mandatory Interim Discipline Record

When a principal or the principal's designee determines a student is in violation of Section 48900 of the California Education Code, an entry will be made on the student's Mandatory Interim Discipline Record. Such record will be maintained in the student's Mandatory Interim Record (Cumulative Folder) for three years. The Mandatory Interim Student Discipline Record, or a copy thereof, will be forwarded to the new school of attendance with other mandatory interim records, when the student transfers to another school. (*Education Code section 49079 (d).*)

Teachers of the student and designated supervisory staff will have a right to review the Student's Mandatory Interim Discipline Record.

V. Jurisdiction for Discipline

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A student 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 under the jurisdiction of the superintendent of any other school district.

A student may be suspended or expelled for acts which are enumerated in Education Code sections 48900, 48900.3, 48900.4, and 48900.7, and are related to school activity or attendance that occur at any time, including but not limited to, any of the following: (*Education Code section 48900*)

- A. While on school grounds or the grounds of another school district,
- B. While going to or coming from school,
- C. During the lunch period, whether on or off campus, or
- D. During or while going to or coming from a school sponsored activity or under the supervision of school staff.

VI. Prescribed Student Conduct

It is the intent of the Legislature that alternatives to suspensions or expulsion be imposed against any student who is truant, tardy, or otherwise absent from school activities. (*Education Code section 48900.*) A student may not be suspended from school or recommended for expulsion unless the Superintendent or the principal of the school in which the student is enrolled determines that the student has:

- 48900 (a)(1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- 48900 (a)(2) Willfully used force or violence upon the person of another, except in self-defense.
- 48900 (b) 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, which is concurred in by the principal or the designee of the principal. "Dangerous objects" include, but are not limited to, B.B. and pellet guns, air rifles, air soft guns, pepper spray, razors, brass knuckles, fist packs, nunchaku, and any other object likely to cause injury to a person or property that has no reasonable use at school.
- 48900 (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.
- 48900 (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.

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- 48900 (e) Committed or attempted to commit robbery or extortion.
- 48900 (f) Caused or attempted to cause damage to school property or private property.
- 48900 (g) Stolen or attempted to steal school property or private property.
- 48900 (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 student of his or her own prescription products.
- 48900 (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- 48900 (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.
- 48900 (k) 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. Defiant and disruptive student behavior includes, but is not limited to, the examples listed in Board Policy No. 2102, Section I-G.-1-14.

Pursuant to Governing Board Policy 2102, Section I-G-1-14, defiant and disruptive student behavior which constitutes a violation of subdivision (k) of Section 48900, includes, but is not limited to the following examples:

- 48900 (l) Knowingly received stolen school property or private property.
- 48900 (m) Possessed an imitation firearm. As used in this section, “imitation firearm” means a replica or 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.
- 48900 (n) Committed or attempted to commit a sexual assault as defined in sections 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.
- 48900 (o) Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding, for the purpose of either preventing that student from being a witness or retaliating against that student for being a witness, or both.
- 48900 (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- 48900 (q) Engaged in, or attempted to engage in, hazing.
- 48900 (r) Engaged in an act of bullying, including, but not limited to, bullying committed by means of an electronic act, as defined in subdivisions (f) and (g) of Section 32261, directed specifically toward a pupil or school personnel.
- 48900 (s) A pupil shall not be suspended or expelled for any of the acts enumerated in this section, unless that act is related to school activity or school attendance

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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

48900 (t) A student who aids or abets, as defined in section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may suffer suspension, but not expulsion, pursuant to this section, except that a student who has been adjudged by a juvenile court to have committed, as an abider 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).

48900.2 Engaged in sexual harassment as defined in section 212.5 of the California Education Code.

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 educational environment. This Section shall not apply to students enrolled in kindergarten and grades 1 to 3, inclusive.

48900.3 Caused, attempted to cause, threatened to cause, or participated in an act of hate motivated behavior, as defined in Education Code section 233(e). This offense only applies to a student in any of the grades 4 to 12, inclusive. Section 233 reads, "As used in this section, 'hate violence' means any act punishable under sections 422.6, 422.7, or 422.75 of the Penal Code."

Hate-motivated behavior is defined as any act or attempted act to cause physical injury, emotional suffering, or property damage through intimidation, harassment, bigoted slurs or epithets, vandalism, force, or threat of force motivated in part or in whole by hostility toward the victim's real or perceived race, color, religion, ancestry, national origin, disability, gender, or sexual orientation.

Acts of hate-motivated behavior include, but are not limited to, criminal acts that are statutory violations and posting or circulating demeaning jokes, announcements, or memorials, and the like; distributing or posting hate-group literature and/or posters; using bigoted insults, taunts, or slurs; and possession of hate-group literature, caricatures, and the like.

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- 48900.4 In addition to the reasons specified above, a student in any of the grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the Superintendent or the principal or designee of the school in which the student is enrolled determines that the student has intentionally engaged in harassment, threats, or intimidation, directed against a student or group of students, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of the student or group of students by creating an intimidating or hostile educational environment.
- 48900.7 In addition to the reasons specified above, a student may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the student is enrolled determines that the student has made terroristic threats against school officials or school property, or both.
- 48900.7 (b) For the purpose 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.

VII. Suspension Procedures

Suspension by a Teacher (*Education Code section 48910*).

1. A teacher may suspend a student from class for the day of the suspension and the day following or may also refer a student to the principal for consideration of suspension from school for any of the acts listed in section 48900 of the California Education Code.
2. When a teacher suspends a student, the teacher will immediately report the suspension to the principal and send the student to the principal for appropriate action.
3. The principal may assign the student to a Supervised Classroom during the term of the suspension. The principal may not assign the student to another regular classroom during the period the student is suspended from class.
4. As soon as possible, the teacher shall ask the student’s parent or guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist should attend the conference if practical, and a school administrator shall attend, if either the parent or the teacher so requests.

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5. A teacher who suspends a student for committing an obscene act, engaging in habitual profanity, disrupting school activities, or otherwise willfully defying the valid authority of the teacher or other school personnel, may require the parent to attend a portion of a school day in his or her child's classroom. The attendance of the parent shall be limited to the class from which the student was suspended.

The teacher shall apply this policy uniformly to all students within the classroom.

If a teacher requests a parent to attend school pursuant to this section, the principal shall send a written notice to the parent stating that attendance by the parent is pursuant to law. The notice may specify that the parent's attendance be on the day in which the student is scheduled to return to class or within a reasonable period of time thereafter.

The teacher shall contact parents who do not respond to the request to attend school. The teacher shall attempt to ascertain the reason for not attending, and shall take into account reasonable factors that may prevent compliance.

The parents who attend school for the purpose of this policy shall meet with the school administrator or designee after completing the classroom visitation and before leaving the school site.

This policy shall apply only to a parent who is actually living with the student.

A. Suspension by Superintendent, Principal, or Principal's Designee.

1. When an incident occurs that may lead to a suspension, the principal or his designee shall investigate the nature of the alleged offense. This investigation shall include a discussion with the student to ensure that the student has the opportunity to be heard. A student's unwillingness to participate in the investigation may be used to infer guilt and may result in further discipline. (*Education Code section 48911 (b).*)

The principal, principal's designee, or Superintendent shall hold an informal conference with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. The student shall be informed of the reason for the disciplinary action and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.

The principal, principal's designee, or the Superintendent may suspend a student without affording the student an opportunity for a conference if it is determined that an emergency situation exists. An "emergency situation" means a situation determined by the principal, principal's designee, or Superintendent to constitute a clear and present danger to the life, safety, or health of students or school personnel. If a student is suspended without a conference prior to suspension, both the parent and the student shall be notified of the student's right to a conference and the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the student is physically able to return to school for the conference.

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1. If the principal, upon completion of the incident investigation, determines that the student violated subdivisions (a), (b), (c), (d), (e), or (n) of Education Code section 48900, then the principal may suspend the student on the first violation without further administrative determination. (*Education Code section 48900.5.*)

Pursuant to Governing Board Policy No. 2110, the principal will suspend and refer the student for consideration of expulsion upon a determination that the student violated section 48900 (a), (b), (c), (d), or (e) or sections 48900.2, 48900.3 or Section 48900.4.

2. If the principal, upon completion of the incident investigation, determines that
 - a. the student violated subdivision (f), (g), (h), (i), (j), (k), (l), (m), (o), (p), (q), (r) (s) or (t) of Education Code section 48900 or Education Code sections 48900.2, 48900.3, 48900.4, or 48900.7; and
 - b. the student's presence at school causes a danger to persons or property, or the student's presence threatens to disrupt the instructional process,

Then the principal may suspend the student on the first violation. (*Education Code section 48900.5.*)

3. If the principal, upon completion of the incident investigation, determines that
 - a. the student violated subdivision (f), (g), (h), (i), (j), (k), (l), (m), (o), (p), (q) (r) (s) or (t) of Education Code section 48900; and
 - b. the student's presence at school does not cause a danger to persons or property, or the student's presence does not threaten to disrupt the instructional process,

Then the principal may not suspend the student on the first violation and shall impose other means of correction. (*Education Code 48900.5.*)

The principal may suspend the student on the second violation, provided the principal determines, "other means of correction have failed to bring about proper conduct."

4. Students suspended during the school day shall either be released to the parent or assigned the student to the resource classroom for the balance of that school day.
5. The Superintendent or designee, or principal or designee, may immediately suspend and remove a student whose conduct disrupts the academic atmosphere of the school, endangers the student, other students, school employees, or property.

Except in cases of disruption where circumstances make it vital that one or several students be removed from school property immediately, no student shall be released from school during the school day without notifying the parent or responsible adult either in person or by telephone. In any case, every effort shall be made to notify the parent or responsible party before removal occurs.

6. At the time of the suspension, a school employee shall make a reasonable effort to contact the parent or guardian of the student by telephone or in person. (*Education Code section 48911 (d).*)

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7. Written notice of the suspension shall be mailed to the parent or guardian of the suspended student. Such notice shall be in the primary language of the parent or guardian. (*Education Code sections 48911 and 48515.*)

The principal may request that the parent attend an informal conference with the principal regarding the student's behavior. The notice shall state that state law requires the parent or guardian to respond to such request without delay.

When a parent is required to be present for a conference regarding the student's behavior, no penalties may be imposed upon the student for the failure of the parents to attend the conference.

Nor, may the readmission of the student to school be contingent on the attendance by the student's parent or guardian at said conference.

A conference, if necessary, should be held at the time and date specified or at a time agreeable to the parent and the principal. Such conference, which is not a judicial proceeding must provide at a minimum:

- a. A statement of the allegations against the student upon which the conference is conducted.
- b. Statements by the student and others in defense of the allegations and/or in mitigation explanation of his or her conduct.

The principal is not required to permit the presence of legal counsel or follow any prescribed judicial rules in conducting the hearing.

8. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Governing Board or Superintendent. (*Education Code section 48911 (e).*)

(*Education Code sections 48911 and 48915.*)

VIII. Involuntary Transfer to Continuation School

- A. When conditions exist that may lead to an involuntary transfer to continuation school, the principal shall investigate the situation. This investigation will include a discussion with the student so that the student may be heard.
- B. A decision to transfer a student involuntarily to a continuation school shall be based on finding that the student committed an act enumerated in section 48900 of the California Education Code or has been habitually truant or irregular in attendance from instruction upon which the student is lawfully required to attend. (*Education Code section 48432.5.*)

Involuntary transfer shall be imposed only when other means fail to bring about student improvement; provided that the student may be transferred the first time he or she commits an act enumerated in section 48900 of the California Education Code if the principal determines that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

- C. If the principal determines that grounds for an involuntary transfer exist, the principal shall proceed in the following manner:

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1. If warranted, implement suspension procedures;
 2. Within one school day of the decision to recommend involuntary transfer to continuation by the principal, written notice shall be provided to the student and parent or guardian of the transfer and informing them of the reasons for the recommendation and the opportunity to request a meeting with the designee of the District Superintendent prior to the transfer. (*Education Code section 48432.5.*)
- D. When a parent has been provided notice of a transfer as set forth herein and requests a meeting with a designee of the District Superintendent prior to the transfer, the Superintendent's designee will meet with the student and the student's parents. During the meeting all available information including specific facts and reasons for considering the transfer shall be reviewed and the student provided the opportunity to inspect the documents, question any evidence and present evidence in the student's behalf. (*Education Code section 48432.5.*)
1. If the Superintendent's designee determines that an involuntary transfer is not in order, the student will be returned immediately to his regular high school program or to a program mutually agreed upon during the conference.
 2. If the Superintendent's designee determines that an involuntary transfer to continuation is in order, the student will be assigned to the continuation school. None of the persons involved in making the final decision may be on the staff of the school in which the student is currently enrolled.
 - a. The decision to transfer shall be in writing stating the fact and reason for the transfer.
 - b. The written decision will include the duration of voluntary assignment, the conditions required to return to the regular program and date of eligibility to return to regular program.
 3. No involuntary transfer to a continuation school shall extend beyond the end of the semester following the semester, during which the acts leading directly to the involuntary transfer occurred. The Superintendent or designee shall review an involuntary transfer annually at the request of the student.

Voluntary transfers from the continuation school to the comprehensive high school shall be initiated prior to the completion of a semester, effective at the start of the following semester, upon a request of the student or the parents of the student. (*Education Code section 48432.5.*)

IX. Suspension with Recommendation for Consideration for Expulsion

- A. Governing Board Policy 2110 declares that, the schools operated by the Clovis Unified School District will not tolerate sexual battery, battery, possession of a firearm, possession of a knife, possession of a dangerous object, possession of explosive devices, sale of controlled substances, possession of controlled substances, vandalism where property damage exceeds \$100, repeated mutual combat, robbery or extortion, participating in gang motivated intimidation, hate-motivated behavior constituting a statutory violation, and assault on or threatening of school staff.

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Pursuant to the Policy, the principal shall immediately suspend and recommend for expulsion from the Clovis Unified School District, any student who violates the following California Education Code sections:

- commits a sexual battery (*Education Code section 48900 (n).*);
- commits a battery (*Education Code section 48900 (a).*);
- is found in possession of a firearm (*Education Code section 48900 (b).*);
- is found in possession of a knife (*Education Code section 48900 (b).*);
- is found in possession of a dangerous object (*Education Code section 48900 (b).*);
- is found in possession of explosive devices (*Education Code section 48900 (b).*);
- is found in possession of a controlled substance (*Education Code section 48900 (c).*);
- sells a controlled substance (*Education Code section 48900 (c).*);
- furnishes a controlled substance (*Education Code section 48900 (c).*);
- commits an act of vandalism with property damage in excess of \$100 (*Education Code section 48900 (f).*);
- participates repeatedly in mutual combat (*Education Code section 48900 (k), and Board Policy No. 2102 G 5.11.*);
- participates in robbery or extortion (*Education Code section 48900 (e).*);
- participates in gang motivated intimidation (*Education Code section 48900.4.*);
- participates in hate-motivated behavior constituting a statutory violation (*Education Code section 48900.3.*); or
- commits an assault on or threatens school staff (*Education Code section 48900 (a).*).

B. Section 48915 of the California Education Code designates student violations for which the school principal shall suspend and shall refer a student for expulsion.

1. Student violations for which the school principal shall suspend and shall refer a student for expulsion are as follows:

- a. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student 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 the act of possessing a firearm only if an employee of a school district verifies the possession.

This constitutes a violation of subdivision (b) of section 48900, possession of a weapon, firearm.

- b. Brandishing a knife at another person.

This constitutes a violation of subdivision (a) and (b) of section 48900, threat to commit an injury to another person and possession of a weapon, knife.

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- c. Unlawfully selling a controlled substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code.

This constitutes a violation of subdivision (c) of section 48900, possession of a controlled substance, possession of a controlled substance for sale, and selling a controlled substance.
- d. Committed 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.

This constitutes a violation of subdivision (n) of section 48900, sexual assault or battery.
2. The principal or the Superintendent of schools shall recommend the expulsion of a student 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. (*Education Code section 48915(a).*)
 - a. Causing serious physical injury to another person, except in self-defense.

This constitutes a violation of subdivision (a) of section 48900, caused a serious physical injury.
 - b. Possession of any knife, explosive, or other dangerous object of no reasonable use to the student.

This constitutes a violation of subdivision (b) of section 48900, possession of identified dangerous object.
 - 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 the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

This constitutes a violation of subdivision (c) of section 48900, identified controlled substance.
 - d. Robbery or extortion.

This constitutes a violation of subdivision (e) of section 48900. Identify whether robbery or extortion.
 - e. Assault or battery, as defined in sections 240 and 242 of the Penal Code, upon any school employee.

This constitutes a violation of subdivision (a) of section 48900.
3. The principal, principal's designee or the superintendent of schools, may suspend and recommend a student for consideration for expulsion, upon finding, the student committed an act listed in subdivision (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (o), (p), or (q) of section 48900 or sections 48900.2, 48900.3, 48900.4 or 48900.7, other than those listed in IX B.1. and IX B. 2. of this Regulation.

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When an incident occurs or conditions exist that may lead to an expulsion, the principal or his representative shall investigate the nature of the alleged incident or conditions. This investigation shall include a discussion with the student, if available, so that the student is given an opportunity to be heard with respect to the matter.

- A. If the principal, or designee, determines that grounds for an expulsion exist, the principal shall proceed in the following manner:
 1. Suspend the student from school in accordance with the procedures in section VII above.
 2. Provide a written recommendation to the Superintendent's designee containing the offenses committed and a statement of the incident.
- B. Upon suspending a student and recommending the student be considered for expulsion, the principal or designee shall refer the matter to the Superintendent's designee for further disposition.
 1. Superintendent's designee proceeds in the following manner:
 - a. Within five (5) school days of the commencement of a student's suspension the student and parents must be given an opportunity to meet with the Superintendent's designee. Such meeting, which is not a judicial proceeding, must provide the parents and student with the opportunity to present any additional data relevant to the recommendation and/or mitigation or explanation of the student's conduct.
 - b. An extension may be imposed only if the Superintendent's designee has determined, following a meeting to which the student and the student's parent are invited to participate, that the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If no danger to persons or property or a threat of disrupting the instruction process exists, the student must be allowed to return to school following the suspension, pending the expulsion.
 - c. If a student or the student's parent has requested a meeting to discuss the original suspension, the Superintendent's designee may determine at that meeting whether to extend the expulsion.
 - d. If the Superintendent's designee determines that grounds for expulsion do not exist, the designee will:
 - (1) Authorize reinstatement of the student in the regular program, or authorize the student to enroll in another educational program upon a request by the student and the student's parents, and
 - (2) direct that the alleged offense be expunged from the student's Mandatory Interim Discipline file.
 - e. Where the expulsion of a student with previously identified exceptional needs is being processed by the Governing Board, the student's suspension may be extended for up to ten (10) consecutive school days, in accordance with the

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procedure for extending suspensions for regular students as set forth above, if the presence of the student at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. In the case of a truly dangerous child, a suspension may exceed ten (10) consecutive school days, or the student's placement may be changed, or both, if:

- i. The student's parent agrees,
- ii. A court order so provides, or
- iii. The student is placed in an interim alternative educational setting.

C. Timelines for Hearing

The student shall be entitled to a hearing to determine whether he or she should be expelled. An expulsion hearing shall be held within 30 school days after the date the principal or the Superintendent determines that the student has committed an offense warranting expulsion, unless the student requests, in writing, that the hearing be postponed. The student shall be entitled to one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the Governing Board.

If it is impracticable for the Governing Board to comply with the time requirements for conducting an expulsion hearing under this section, the Superintendent may, for good cause, extend the time period for commencing the expulsion hearing for an additional five (5) school days. Reasons for the extension of the time for the hearing shall be included as part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

If the 30 school-day period within which to hold an expulsion hearing extends into a summer recess of Governing Board meetings of more than two weeks, the days during the summer recess period shall not be counted as school days toward the 30 school-day time limit. The school days not counted during a summer recess of the Governing Board shall not exceed 20 school days, and 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 school for the school year. (*Education Code section 48918(a).*)

D. Written Notice of Hearing

Written notice of the hearing shall be forwarded to the student at least ten (10) calendar days prior to the date of the hearing. The notice shall include:

1. The date and place of the hearing.
2. A statement of the specific facts and charges upon which the proposed expulsion is based.
3. A copy of the disciplinary rules of the District that relate to the alleged violation.
4. Notice of the parent's or student's obligation to notify a subsequent school district of the student's expulsion status, pursuant to Education Code section 48915.1(b).

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5. Notice of the opportunity for the student or the student's parent to appear in person or employ and be represented by counsel or by a nonattorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the student's behalf, including witnesses.

E. Student's Right to Waive Hearing

The student and the student's parent shall be afforded the opportunity, at their discretion, to waive any and all of their due process rights relative to an expulsion recommendation, including, but not limited to, the right to a hearing to determine whether the student committed the offense(s) with which s/he has been charged. If the student and/or the student's parent requests a waiver of any of their rights, the consequences of such a waiver shall be thoroughly explained to them by the District prior to entering into a waiver agreement.

F. Administrative Expulsion Hearing Panel**1. Composition of the Administrative Expulsion Hearing Panel:**

- The Administrative Expulsion Hearing Panel shall consist of three certificated persons, none of whom are employed at the school at which the student is enrolled. The panel will be chaired by a Superintendent's designee. (*Education Code section 48918(d).*)
2. The hearing panel will be convened by the Panel Chairperson, who will insure the administrative hearing is conducted pursuant to due process guidelines.
3. The Chairperson will inform the parents and the student of the findings of fact and the Administrative Panel's determinations and the student's rehabilitation plan, after the Panel's deliberations are completed.
4. The Chairperson will prepare the Panel's findings of fact and determinations and the student's rehabilitation plan for presentation to the Governing Board for action by the Board.
5. In lieu of the Panel conducting an expulsion hearing, the Governing Board, a County hearing officer, or an Administrative Law Judge from the California Office of Administrative Hearings may conduct the hearing. The hearing shall be conducted in accordance with all of the procedures established under this Regulation.

G. Hearing in Closed Session

The Administrative Expulsion Hearing Panel shall conduct a hearing to consider the expulsion of a student in a session closed to the public, unless the student requests, in writing, at least five (5) days prior to the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the Panel may meet in closed session for the purpose of deliberating and determining whether the student should be expelled.

H. Evidence at the Hearing

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1. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
2. No evidence to expel shall be based solely upon hearsay evidence; however, the Administrative Panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Administrative Panel. Copies of these sworn declarations, which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the student.
3. If the student, parent, or representative of the student fails to object at the hearing that these rules are not being properly followed, or that any other law or requirement of due process is not being followed, the objections shall be deemed waived.
4. Any testimony provided by a student witness in an expulsion hearing conducted is expressly deemed to be a communication protected by Civil Code section 47(b).

I. Subpoena Power

1. Before the hearing has commenced, the Administrative Panel may issue subpoenas at the request of either the Superintendent or the student, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the Administrative Panel may, upon request of either the County Superintendent of Schools, the Superintendent's designee or the student, issue subpoenas. All subpoenas shall be issued in accordance with sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Government Code section 11525.
2. Any objection raised by the Superintendent or the student to the issuance of subpoenas may be considered by the Administrative Panel in closed session, or in open session, if so requested by the student before the meeting. Any decision by the Administrative Panel in response to an objection to the issuance of subpoenas shall be final and binding.
3. If the Administrative Panel determines that a percipient witness would be subject to an 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.
4. Service of process shall be extended to all parts of the State and shall be served in accordance with section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the State or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

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A record of the hearing shall be made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made.

K. Recommendation by Administrative Panel

1. Within three (3) school days after the hearing, the Administrative Panel shall determine whether to recommend the expulsion of the student to the Governing Board.
2. If the Administrative Panel decides not to recommend expulsion, the expulsion proceedings shall be terminated, and the student immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the Superintendent's designee after consultation with District personnel, including the student's teachers and parent(s). The decision not to recommend expulsion shall be final.
3. If the Administrative Panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the Governing Board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing.
4. The Governing Board shall make its decision about a student's expulsion within 40 school days after the date of the student's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the Superintendent, unless the student requests in writing that the decision be postponed.
5. The decision to expel a student shall be based upon the substantial evidence, relevant to the charges and showing that the student committed any of the acts enumerated above, adduced at the expulsion hearing or hearings.
6. The parent may appear before the Governing Board to appeal the expulsion recommendation provided notice is received from the parent by the Director of Student Services and Student Attendance no later than 11:00 a.m. on the Friday preceding the date the Governing Board is scheduled to consider the expulsion.
7. If the Governing Board accepts the recommendation of an Administrative Panel calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the Panel or upon the results of any supplementary hearing conducted pursuant to this section that the Governing Board may order.

L. Rehabilitation Plan

The Governing Board shall recommend or adopt the Administrative Panel's recommended plan of rehabilitation for the student at the time of the expulsion order, which may include, but not be limited to, periodic review of the student's progress and a requirement that the student attend and participate in the actual review for readmission.

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The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs. The Governing Board may require a student who is expelled for reasons relating to controlled substances (as defined in Health and Safety Code sections 11054 to 11058, inclusive), or alcohol, to enroll in a County-supported drug rehabilitation program prior to returning to school. No student shall be required to enroll in a drug rehabilitation program without parent consent. (*Education Code sections 48916(b) and 48916.5.*)

M. Suspension of Expulsion

The Administrative Panel or Governing Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class, or program that is deemed appropriate for the rehabilitation of the student. The criteria for suspending the enforcement of an expulsion order shall apply equally to all students. The rehabilitation program to which the student is assigned may provide for the involvement of the student's parent in his or her child's education in ways that are specified in the rehabilitation program. A parent's refusal to participate in the rehabilitation program shall not be considered in the determination as to whether the student has satisfactorily completed the rehabilitation program. During the period of the suspension of the expulsion order, the student shall be deemed to be on probationary status. (*Education Code section 48917.*)

The Governing Board may revoke the suspension of an expulsion order under this section if the student commits any of the acts for which a student may be suspended or expelled under this Regulation or violates any of the District's rules and regulations governing student conduct. When the Governing Board revokes the suspension of an expulsion order, the student may be expelled under the terms of the original expulsion order without an additional hearing before the Board or an Administrative Panel.

Upon satisfactory completion of the rehabilitation assignment, the Governing Board shall reinstate the student in a school of the District and may also order that any or all records of the expulsion proceedings be expunged.

A decision to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board of Education. Any appeal shall be filed within 30 days of the original vote for expulsion.

N. Final Action in Public Session

Whether an expulsion hearing is conducted by the Governing Board, a hearing officer, or an Administrative Panel, final action to expel a student shall be taken only by the Governing Board in a public session.

O. Written Notice of Expulsion Decision

Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the Superintendent to the student and shall be accompanied by:

1. Notice of the right to appeal the expulsion to the County Board of Education.

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2. Notice of the educational alternative placement to be provided to the student during the time of expulsion.
3. Notice of the parent or student's obligation under subdivision (b) of Education Code section 48915.1, upon the student's enrollment in a new school district, to inform that district of the expulsion.
4. A description of the procedure for requesting readmission.

P. Record of Expulsion

The Governing Board shall maintain a record of each expulsion, including the cause therefore. Records of expulsion shall be a nonprivileged, disclosable public record. The expulsion order and the cause(s) therefore shall be recorded in the student's Mandatory Interim Record and shall be forwarded to any school in which the student subsequently enrolls upon receipt of a request from the admitting school for the student's school records.

Q. Special Procedures for Cases of Sexual Assault or Battery

1. In a hearing in which a student is alleged to have committed or attempt to commit a sexual assault, or to have committed a sexual battery, a complaining witness shall be given five (5) days' notice prior to being called to testify, and shall be entitled to have up to two adult support persons present during his or her testimony. Prior to a complaining witness testifying, support person(s) shall be admonished that the hearing is confidential.
2. A complaining witness shall have the right to have his or her testimony heard in a closed session if the hearing is open to the public, when testifying at a public meeting would threaten serious psychological harm to the complaining witness and 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 means of closed-circuit television.
3. At the time the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to:
 - a. receive five (5) days' notice of his or her scheduled testimony at the hearing
 - b. have up to two adult support persons of his or her choosing present at the hearing at the time he or she testifies.
 - c. have the hearing closed during the time he or she testifies.
4. The expulsion hearing may be postponed for one (1) school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness.
5. The District shall provide a nonthreatening environment for a complaining witness in order to better enable him or her to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. The District shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the

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- 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 or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.
6. Evidence of specific instances of a complaining witness's prior sexual conduct is to be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances exist requiring the evidence be heard. Before such a determination is made, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of such 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 the complaining witness is not admissible for any purpose.
 7. Complaining witnesses and accused students will be advised immediately after any allegation is made of conduct violating Education Code section 48900(n) to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

(Education Code sections 48918 and 48918.5.)

R. Educational Program Requirements for Expelled Students

1. At the time an expulsion is ordered, the District shall ensure that an educational program is provided to the expelled student for the period of the expulsion.
2. In order to provide the educational program required by this subsection, the Governing Board shall refer the student to a program of study that meets all of the following conditions:
 - a. Is appropriately prepared to accommodate students who exhibit discipline problems.
 - b. Is not provided at a comprehensive high school.
 - c. Is not housed at the school site attended by the student at the time of suspension.

- Notwithstanding this subsection, with respect to a student expelled for a violation of Education Code section 48900(f) through (t), if the County Superintendent of Schools certifies that an alternative program of study is not available at a site away from a comprehensive high school, and that the only option for placement is at another comprehensive high school, the student may be referred to a program of study that is provided at a comprehensive high school.
3. Notwithstanding the above, a student expelled for any of the offenses listed in IX.B.1. or IX.B.2. shall not be permitted to enroll in any other school or school district during

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- the period of expulsion, unless it is a county community school pursuant to Education Code section 1981(c) or a juvenile court school, as described in Education Code section 48645.1, or a community day school pursuant to Article 3 (commencing with Education Code section 48660) of Chapter 4 of Part 27.
4. The District may offer the student who is subject to the expulsion order independent study in order to satisfy the requirements of X.R.1. The parent and the student shall provide the written consent for placement in independent study. The District or the County Superintendent of Schools shall notify the expelled student of the option of classroom instruction pursuant to Education Code section 51747(c)(7).
 5. The program provided pursuant to this section is the only program required to be provided to expelled students as determined by the Governing Board.

(Education Code sections 48915(d), (f); 48915.2; and 48916.1.)

S. Readmission After Expulsion

1. **Duration of Expulsion.** An expulsion order shall remain in effect until the Governing Board orders the readmission of a student. At the time an expulsion of a student is ordered for an act other than those described in IX.B.1., the Governing Board shall set a date not later than the last day of the semester following the semester in which the expulsion occurred, when the student shall be reviewed for readmission to a school maintained by the District or to the school the student last attended. For a student who has been expelled pursuant to IX.B.1., the Governing Board shall set a date of one year from the date the expulsion occurred, when the student shall be reviewed for readmission to a school maintained by the District, except that the Governing Board may set an earlier date for review for readmission on a case-by-case basis.
2. **Procedure for Readmission.**
 - a. On or before the date established by the Governing Board when the student will be reviewed for readmission, the student shall submit written documentation in support of readmission to the Superintendent's designee. The student should describe his/her compliance with the rehabilitation plan recommended at the time of the expulsion order. Failure to submit documentation and/or to cooperate in the review of readmission may be deemed grounds for denial or readmission.
 - b. The Superintendent's designee will review the written documentation in support of readmission, the accompanying information, and may request additional information as needed. The Superintendent's designee also may schedule a conference with the student and the student's parent to review the written documentation in support of readmission.
 - c. Within 10 school days of the request for readmission, the Superintendent's designee will determine whether the student should be readmitted. The Superintendent's designee will give the student and/or the student's parent written notice of the decision. If the Superintendent's designee readmits the student, the decision shall be final.

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- d. If the Superintendent's designee denies the student's readmission, the Superintendent's designee shall inform the student, in writing, of the decision, the reasons therefore, and of the student's right to appeal the decision to the Governing Board. The Superintendent's designee shall also inform the student that an appeal must be in writing and must be submitted to the District office within two (2) weeks of receipt of the decision.
- e. The appeal will be heard at the next Board meeting following receipt of the appeal, unless the Board meeting is within three (3) work days of receipt of the student's appeal. In such case, the appeal will be heard at the following Board meeting.
- f. The Board will meet with the student, his or her parent, and the Superintendent or designee in closed session. The Board will review all written materials related to the denial of readmission. The student or the parent may explain why the student should be readmitted, and the Superintendent or designee may explain why s/he denied readmission. The Governing Board shall readmit the student unless the Board makes a finding that the student has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other students or employees of the District.
- g. The Board shall make a decision no later than the meeting following the meeting at which the appeal was heard. The Board shall notify the student of its decision in writing no later than two (2) weeks following this meeting. The Board's decision regarding readmission is final.
- h. If the Governing Board denies readmission, the Board shall make a determination either to continue the placement of the student in the alternative educational program initially selected for the student during the period of the expulsion order or to place the student in another program that may include, but not be limited to, serving expelled students, including placement in a county community school.
- i. The Governing Board shall provide written notice to the expelled student and the student's parent describing the reasons for denying the student's readmittance into the regular District program. The written notice shall also include the determination of the educational program for the expelled student pursuant to X.S.2.h. The expelled student shall enroll in that educational program unless the parent of the student elects to enroll the student in another school district.

(Education Code section 48916.)

T. Appeal to the County Board of Education

1. **Time for Appeal.** If a student is expelled from school, the student or the student's parent may, within 30 days following the decision of the Governing Board to expel, file an appeal to the County Board of Education which shall hold a hearing thereon and render its decision.

The period within which an appeal is to be filed shall be determined from the date the Governing Board votes to expel, even if enforcement of the expulsion is suspended and the student is placed on probation. A student who fails to appeal the original

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action of the Board within the prescribed time may not subsequently appeal a decision of the Board to revoke probation and impose the original order of expulsion.

2. Required Records. The student shall submit a written request for a copy of the written transcripts and supporting documents from the District simultaneously with the filing of the notice of appeal with the County Board of Education. The District shall provide the student with the transcriptions, supporting documents, and records within ten (10) school days following the student's written request. Upon receipt of the records, the student shall immediately file suitable copies of these records with the County Board of Education.

It shall be the student's responsibility to submit a written transcription for review by the County Board of Education. The cost of the transcript shall be borne by the student, except in either of the following situations:

- a. Where the student's parent certifies to the District that s/he cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.
- b. In a case in which the County Board of Education reverses the decision of the Governing Board, the County Board shall require the Governing Board to reimburse the student for the cost of the transcription.

(Education Code sections 48919-48924.)

XI. Student Discipline – Section 504 Students

The following procedures are based on court rulings, the United States Codes (29 U.S. Code Section 705, et seq.), the California Education Code, California Code of Regulations, and the Code of Federal Regulations (34 C.F.R. Part 104 and 200, et seq.).

It is the intent of the Governing Board that students identified with disabilities under Section 504 of the Rehabilitation Act of 1973 (29 U.S. Code Section 705, et seq.) be subject to the same rules, regulations and discipline procedures established for other students attending a school operated by the Clovis Unified School District, when it is established that the misconduct was not caused by, or was not a direct manifestation of, the student's disability. *(34 C.F.R. 104.35.)*

- A. Specific methods must be employed when implementing suspension, exclusion by court order, expulsion, and involuntary transfer for Section 504 students to ensure such students and their parents have access to required procedural safeguards.
- B. Before an expulsion recommendation can be processed for a previously identified Section 504 student, a 504 Student Study Team must conduct a hearing to determine if the student's misconduct was caused by, or was not a direct and substantial result of, the student's identified disability. This hearing shall take place prior to the pre-expulsion meeting conducted by the Superintendent's designee.
 1. If it is determined by the 504 Student Study Team that the misconduct was not caused by, or was not a direct and substantial result of, the student's identified disability, the student shall be subject to the same expulsion process as a similarly situated non-disabled student.

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2. If it is determined by the 504 Student Study Team that the misconduct was caused by, or was the direct and substantial result of, the student's identified disability, the Section 504 student may not be disciplined or expelled and the 504 Student Study Team must then determine whether the student's current placement is appropriate.
- C. The suspension of a Section 504 student may be extended beyond a total of ten (10) consecutive school days, without completion of the 504 Student Study Team's determination whether the student's current placement is appropriate and without providing Section 504 procedural safeguards, only when the student poses an immediate threat to the safety of self or others.

The suspension of a Section 504 student may be extended beyond a total of ten (10) consecutive school days, if the Superintendent's designee obtains a court order extending the suspension. Such order must specify the length and other terms of the exclusion, which may include an interim alternative educational placement.

The suspension of a Section 504 student may also be extended beyond a total of ten (10) consecutive school days, if the parent agrees to a change in placement. (*Desert Sands Unified School District (CA) 26 IDELR 613 (OCR 1997).*)
- D. In the event of a disagreement between the parent and the District regarding the identification, evaluation, or educational placement of the student, the parent has the right to an impartial hearing, with an opportunity to participate and be represented by counsel. This will be accomplished pursuant to District policies related to Section 504 students described above.
- E. If the parent or the District requests that a student who is recommended for expulsion be assessed to determine if the student has a disability under Section 504, this shall be done in compliance with Section 504 Regulations.

XII. Student Discipline - Special Education Students Under the IDEA

The following procedures are based on court rulings (the U.S. Supreme Court and 9th Circuit Court of Appeal), the California Education Code (sections 56026 and 48915.5), California Code of Regulations, and federal regulations (34 CFR Part 100 and 300, et seq.). Students who qualify for special education and/or services under the IDEA (Individuals with Disabilities Act, 20 U.S. Code sections 1400, et seq.) and as described in Education Code section 56026, must be afforded procedural rights under the Education for the Handicapped Act of 1975, when the District initiates discipline procedures that will substantially affect the implementation of the student's individualized education program (IEP) by causing a change in placement.

It is the intent of the Governing Board that students identified with disabilities under the IDEA may only be subjected to suspension after other means of correction fail to bring about proper conduct and/or other means of correction are not feasible or have repeatedly failed. (*Education Code sections 48900.5 and 48915.*)

A. Five-Day Suspensions

A teacher may suspend a student identified with disabilities under the IDEA ("special education student") for any of the acts enumerated in Education Code section 48900, for

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the day of the suspension and the day following. (*Education Code sections 48910 and 48915.5.*)

If a special education student's behavior warrants further discipline, a principal, principal's designee, or the Superintendent's designee may suspend a special education student for no more than five (5) consecutive days for any of the reasons enumerated in Education Code sections 48900, 48900.2, 48900.3, 48900.4, and 48900.7, and pursuant to sections 48900.5 and 48915.5, unless a longer suspension is warranted as described below. (*Education Code sections 48900.5 and 48915.5.*)

A student may be suspended for a first offense, if it has been determined that any violation of Education Code section 48900, subdivision (a) through (e) has occurred, or that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (*Education Code sections 48900.5 and 48915.5.*)

B. Ten-Day Suspensions

Although State law limits consecutive days of suspension to five (5) days (Education Code section 48911), the District may utilize the "permissive Education Code provision" set forth in section 35161 in conjunction with section 48912, to justify extending a suspension from five (5) to ten (10) days when a recommendation for expulsion is being processed. (*Education Code sections 35161, 48911, 48912 and 48915.5.*)

A special education student may be suspended for up to ten (10) days when there is a substantial likelihood that the student will cause injury to self or others.

During this ten-day cooling down period, the District should initiate a review of the student's IEP and/or seek the parent's(s) agreement to an interim placement if necessary. (*20 U.S.C. 1414(d)(3)(B)(i), (4).*)

C. Suspension of a special education student from school bus transportation is regarded as a suspension from school, if the failure to provide transportation prohibits the student from receiving the special education services specified in the student's IEP.

Pursuant to Education Code section 48915.5, subdivision (c) if a special education student is excluded from school bus transportation, the student is entitled to be provided with an alternative form of transportation to school at no cost to the parent or the student, provided that transportation is specified in the student's IEP. (*Education Code section 48915.5(c).*)

D. Suspension Extended Beyond Ten (10) School Days

A special education student may be suspended beyond a total of ten consecutive school days only when a student poses an immediate threat to the safety of self or others and:

1. A manifestation determination by the IEP team has identified that the special education student's misconduct was not caused by, or had a direct and substantial relationship to, the student's identified disability under the IDEA (34 C.F.R. 104.35(a).);
2. Parent(s) agree to a change of placement, or

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3. The Superintendent's designee obtains a court order extending the suspension. Such order would specify the length and other terms of the exclusion, which could include an interim alternative education placement.

The District may petition the court for temporary injunctive relief beyond the ten day suspension period when there is a substantial likelihood that the student will cause self injury or injury to others. The petition to court must comply with applicable procedures regarding injunctions. The District must overcome the legal presumption in favor of the student "staying put" and must demonstrate "*a substantial likelihood that the student will injure him/herself or others.*"

Should injunctive relief be granted, the court will rule on the length of the exclusion and any other terms of the exclusion.

A special education student who is excluded from school attendance, must be provided educational services pursuant to his/her IEP during the time of the exclusion.

E. Involuntary Transfer

When a principal recommends a special education student for consideration for involuntary transfer to an alternative education program, the student's IEP team must be convened to determine that the special education services to be provided to the student in a specified alternative educational program comports with the student's IEP and is deemed educationally beneficial to that student.

F. Expulsion

1. Upon initiation of expulsion proceedings against a student with a disability, the following procedures apply:
 - a. Expulsion procedures must be carried out by the District pursuant to Education Code sections 48915 and 489115.5 as modified by court decisions.
 - b. A manifestation determination by the IEP team must conclude that the special student's misconduct was not caused by, or had a direct and substantial relationship to, the student's identified disability under the IDEA, and that the special education student was appropriately placed at the time of the misconduct. (*34 C.F.R. 104.35(a).*)
 - c. Parents(s) shall be provided the procedural safeguards including notice and the due process hearing rights pursuant to Education Code section 56500.1 and U.S.C. section 1415, et seq.
2. When a special education student is recommended for expulsion, the IEP team must conduct a functional behavioral assessment and implement a Behavioral Intervention Plan (BIP) for the student, provided the District has not conducted such assessment prior to the conduct at issue. If a BIP has already been developed, the IEP team will review the plan and modify it, as necessary, to address the student's behavior. (*20 U.S.C. 1415(k).*)
3. When a special education student is recommended for expulsion, the IEP team must consider the special education student's current assessment information in their

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manifestation determination to assist in deciding whether the student's was the result of an inappropriate placement. (20 U.S.C. 1415(k).)

4. If the IEP team determines that the alleged misconduct was not a manifestation of the student's disability and the IEP and placement were appropriate, the student shall be subject to the applicable District disciplinary actions and procedures, but a free and appropriate public education must continue to be provided.

If the IEP determines that the student's behavior was a manifestation of the student's disability, the student may not be expelled.

5. A parent must receive proper notice 48 hours in advance of the IEP team meeting of the right to participate.
6. A parent or guardian may challenge a decision for expulsion by requesting a due process hearing pursuant to Education Code Section 56500.1 20 U.S.C. section 1415.
7. A special education student must generally remain in his/her current placement ("*stay put*"), while the expulsion process is pending if the parent requests a due process hearing or appeals a hearing decision to the court. However, a student with a disability may be placed in an appropriate interim alternative educational setting when he/she commits one of the following acts:
 - a. Carries a weapon, as defined in 18 U.S.C. section 930, to school or to a school function.
 - b. Knowingly possesses or uses illegal drugs while at school or a school function.
 - c. Sells a controlled substance while at school or a school function.

A hearing officer may order a change in placement of a student with a disability to an appropriate interim educational setting if the hearing officer:

- a. Determines that the District has established by substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or others.
- b. Considers the appropriateness of the student's current placement.
- c. Considers whether the District has made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services.
- d. Determines that the interim alternative educational setting allows the student to participate in general curriculum, to continue to receive IEP services, and to receive services designed to ensure that the behavior does not recur.

The student may be placed in the interim alternative educational setting for up to 45 days, or until the conclusion of any due process hearing proceedings requested by the parent.

The student's alternative educational setting shall be determined by the student's IEP team.

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8. Exceptions to the “stay put” provision may occur if the parents agree to an interim placement modification or if the court orders an interim remedy.

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Amended: 8/23/06
Amended: 7/8/09

Education Code sections 233, 35161, 35291, 44014, 44900-58915.5, 48918, 48264, 48264.5, 48918, 48264, 48264.5, 48432.5, 49079, 56500.1
Penal Code 71, 240, 245, 626.9, 626.10
Title 20 United States Code 1415 et seq.
Title 34 Code of Federal Regulations, Parts 104 and 300