

**SUSPENSION AND EXPULSION/DUE PROCESS**

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

*(cf. 5131 - Conduct)*

*(cf. 5131.1 - Bus Conduct)*

*(cf. 5131.2 - Bullying)*

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

Except when otherwise permitted by law, a student may be suspended or expelled only when his/her behavior is related to a school activity or school attendance occurring within any COE school or other school COE, regardless of when it occurs, including, but not limited to, the following: (Education Code 48900(s))

1. While on school grounds
2. While going to or coming from school
3. During the lunch period, whether on or off the school campus

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

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

COE staff shall enforce the rules concerning suspension and expulsion of students fairly, consistently, equally, and in accordance with the COE's nondiscrimination policies.

*(cf. 0410 - Nondiscrimination in COE Programs and Activities)*

**Appropriate Use of Suspension and Expulsion**

Except when a student commits an act that violates Education Code 48900(a)-(e) or his/her presence causes a danger to others, suspension shall be used only when other means of correction have failed to bring about proper conduct.

Except when a student commits an act listed in Education Code 48915(c), the Superintendent or designee shall have the discretion to determine whether to recommend to the Board that the student be expelled.

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

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

To correct the behavior of any student who is subject to discipline, the Superintendent or designee shall, to the extent allowed by law, first use alternative disciplinary strategies specified in AR 5144 - Discipline. (Education Code 48900.5, 48900.6)

*(cf. 1020 - Youth Services)*  
*(cf. 5138 - Conflict Resolution/Peer Mediation)*  
*(cf. 5144 - Discipline)*  
*(cf. 6142.4 - Service Learning/Community Service Classes)*  
*(cf. 6164.2 - Guidance/Counseling Services)*  
*(cf. 6164.5 - Student Success Teams)*

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

*(cf. 5113 - Absences and Excuses)*  
*(cf. 5113.1 - Chronic Absence and Truancy)*

COE staff shall not suspend any student for disruption or willful defiance, unless the suspension is warranted by documented repetitive behavior of the student or the disruption or willful defiance occurred in conjunction with another violation for which the student may be suspended.

A student's parents/guardians shall be notified as soon as possible when there is an escalating pattern of misbehavior that could lead to classroom or school removal.

### **Due Process**

The Board shall provide for the fair and equitable treatment of students facing suspension and expulsion by affording them their due process rights under the law. The Superintendent or designee shall comply with procedures for notices, hearings, and appeals as specified in law and administrative regulation. (Education Code 48911, 48915, 48915.5, 48918)

*(cf. 5119 - Students Expelled from Other Districts)*  
*(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))*

### **Removal from Class by a Teacher and Parental Attendance**

When suspending a student from class for committing an obscene act, engaging in habitual profanity or vulgarity, disrupting school activities, or otherwise willfully defying valid staff authority, the teacher of the class may require any parent/guardian who lives with the student to attend a portion of the school day in the class from which the student is being suspended, to assist in resolving the classroom behavior problems. (Education Code 48900.1)

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

Teachers should reserve the option of required parental attendance for cases in which they have determined that it is the best strategy to promote positive interaction between the teacher and the student and his/her parents/guardians and to improve the student's behavior.

Any teacher requiring parental attendance pursuant to this policy shall apply the policy uniformly to all students within the classroom. (Education Code 48900.1)

When a teacher requires parental attendance, the principal shall send a written notice to the parent/guardian stating that his/her attendance is required pursuant to law and that, if there are reasonable factors that may prevent the parent/guardian from complying with the requirement, he/she should contact the school. (Education Code 48900.1)

*(cf. 5145.6 - Parental Notifications)*

A parent/guardian who has received a written notice shall attend class as specified in the notice. After completing the classroom visit and before leaving school premises, the parent/guardian also shall meet with the principal or designee. (Education Code 48900.1)

At the meeting with the student's parent/guardian, the principal or designee shall explain the COE's and school's discipline policies, including the disciplinary strategies that may be used to achieve proper student conduct.

When a parent/guardian does not respond to the request to attend school, the principal or designee shall contact him/her by any method that maintains the confidentiality of the student's records.

*(cf. 5125 - Student Records)*

COE regulations and school-site rules for student discipline shall include procedures for implementing parental attendance requirements. Parents/guardians shall be notified of this policy prior to its implementation. (Education Code 48900.1)

### **Supervised Suspension Classroom**

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

Except where a supervised suspension is permitted by law for a student's first offense, supervised suspension shall be imposed only when other means of correction have failed to bring about proper conduct. (Education Code 48900.5)

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

**Decision Not to Enforce Expulsion Order**

Upon voting to expel a student, the Board may suspend enforcement of the expulsion order pursuant to the requirements of law and administrative regulation. (Education Code 48917)

**Maintenance and Monitoring of Outcome Data**

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

The report shall be disaggregated by school and by numerically significant student subgroups, including, but not limited to, ethnic subgroups, socioeconomically disadvantaged students, English learners, foster youth, and students with disabilities. The report also shall include information about whether and how the COE is meeting its goals for improving school climate as specified in its local control and accountability plan.

*(cf. 0460 - Local Control and Accountability Plan)*

*Legal Reference: (see next page)*

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

*Legal Reference:*

EDUCATION CODE

212.5 Sexual harassment

233 Hate violence

1981 Enrollment of students in community school

17292.5 Program for expelled students

32261 Interagency School Safety Demonstration Act of 1985

35145 Open board meetings

35146 Closed sessions (regarding suspensions)

35291 Rules (for government and discipline of schools)

35291.5 Rules and procedures on school discipline

48645.5 Readmission; contact with juvenile justice system

48660-48666 Community day schools

48853.5 Foster youth

48900-48927 Suspension and expulsion

48950 Speech and other communication

48980 Parental notifications

49073-49079 Privacy of student records

52060-52077 Local control and accountability plan

CIVIL CODE

47 Privileged communication

48.8 Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997 Subpoenas; means of production

GOVERNMENT CODE

11455.20 Contempt

54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia

11053-11058 Standards and schedules

LABOR CODE

230.7 Discharge or discrimination against employee for taking time off to appear in school on behalf of a child

PENAL CODE

31 Principal of a crime, defined

240 Assault defined

241.2 Assault fines

242 Battery defined

243.2 Battery on school property

243.4 Sexual battery

245 Assault with deadly weapon

245.6 Hazing

261 Rape defined

266c Unlawful sexual intercourse

286 Sodomy defined

288 Lewd or lascivious acts with child under age 14

288a Oral copulation

289 Penetration of genital or anal openings

*Legal Reference continued: (see next page)*

## SUSPENSION AND EXPULSION/DUE PROCESS (continued)

### *Legal Reference: (continued)*

#### PENAL CODE (continued)

417.27 Laser pointers

422.55 Hate crime defined

422.6 Interference with exercise of civil rights

422.7 Aggravating factors for punishment

422.75 Enhanced penalties for hate crimes

626.2 Entry upon campus after written notice of suspension or dismissal without permission

626.9 Gun-Free School Zone Act of 1995

626.10 Dirks, daggers, knives, razors, or stun guns

868.5 Supporting person; attendance during testimony of witness

#### WELFARE AND INSTITUTIONS CODE

729.6 Counseling

#### UNITED STATES CODE, TITLE 18

921 Definitions, firearm

#### UNITED STATES CODE, TITLE 20

1415(K) Placement in alternative educational setting

7151 Gun-free schools

#### COURT DECISIONS

T.H. v. San Diego Unified School District (2004) 122 Cal. App. 4th 1267

Woodbury v. Dempsey (2003) 108 Cal. App. 4th 421

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H. (2001) 85 Cal.App.4th 1321

Garcia v. Los Angeles Board of Education (1991) 123 Cal. App. 3d 807

Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182

John A. v. San Bernardino School District (1982) 33 Cal. 3d 301

#### ATTORNEY GENERAL OPINIONS

84 Ops.Cal.Atty.Gen. 146 (2001)

80 Ops.Cal.Atty.Gen. 348 (1997)

80 Ops.Cal.Atty.Gen. 91 (1997)

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

### *Management Resources:*

#### CSBA PUBLICATIONS

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

#### U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline, January 2014

#### WEB SITES

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

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

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

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

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

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

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

**SUSPENSION AND EXPULSION/DUE PROCESS****Definitions**

*Suspension from school* means removal of a student from ongoing instruction for adjustment purposes. However, suspension does not mean any of the following: (Education Code 48925)

1. Reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910. Removal from a particular class shall not occur more than once every five school days.

*Expulsion* means removal of a student from the immediate supervision and control or the general supervision of school personnel. (Education Code 48925)

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

*School day* means a day upon which the schools of the COE are in session or weekdays during the summer recess. (Education Code 48925)

*Principal's designee* means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

*School property*, for the purposes described in Education Code 48900, includes, but is not limited to, electronic files and databases. (Education Code 48900(u))

**Notice of Regulations**

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension and expulsion. (Education Code 35291, 48900.1, 48980)

(cf. 5144 - Discipline)

(cf. 5145.6 - Parental Notifications)

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

**Grounds for Suspension and Expulsion**

Acts for which a student, including a student with disabilities, may be suspended or expelled shall be only those specified as follows:

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

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury (Education Code 48900(a) and (t))
2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence (Education Code 48900(b))

*(cf. 5131 - Conduct)*

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

3. Unlawfully possessed, used, sold, otherwise furnished, or was under the influence of any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind (Education Code 48900(c))

*(cf. 5131.6 - Alcohol and Other Drugs)*

4. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053-11058, alcoholic beverage, or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented same as such controlled substance, alcoholic beverage, or intoxicant (Education Code 48900(d))
5. Committed or attempted to commit robbery or extortion (Education Code 48900(e))
6. Caused or attempted to cause damage to school property or private property (Education Code 48900(f))
7. Stole or attempted to steal school property or private property (Education Code 48900(g))



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

8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction shall not prohibit a student from using or possessing his/her own prescription products (Education Code 48900(h))

*(cf. 5131.62 - Tobacco)*

9. Committed an obscene act or engaged in habitual profanity or vulgarity (Education Code 48900(i))
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5 (Education Code 48900(j))
11. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties (Education Code 48900(k))

*(cf. 5131.4 - Student Disturbances)*

12. Knowingly received stolen school property or private property (Education Code 48900(l))
13. Possessed an imitation firearm (Education Code 48900(m))

*Imitation firearm* means a replica of a firearm that is so substantially similar in physical properties to an existing firearm as to lead a reasonable person to conclude that the replica is a firearm. (Education Code 48900(m))

14. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committed a sexual battery as defined in Penal Code 243.4 (Education Code 48900(n))
15. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness (Education Code 48900(o))
16. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma (Education Code 48900(p))
17. Engaged in, or attempted to engage in, hazing (Education Code 48900(q))

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

*Hazing* means a method of initiation or pre-initiation into a student organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective student. *Hazing* does not include athletic events or school-sanctioned events.

18. Engaged in an act of bullying (Education Code 48900(r))

*Bullying* means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student in fear of harm to himself/herself or his/her property; cause the student to experience a substantially detrimental effect on his/her physical or mental health; or cause the student to experience substantial interferences with his/her academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying shall include any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 (items #21-23 below), that has any of the effects described above on a reasonable student.

*Electronic act* means the creation or transmission of a communication originated on or off school site, including, but not limited to, a message, text, sound, image, or post on a social network Internet web site, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager. A post on a social network Internet web site shall include, but is not limited to, the posting or creation of a burn page or the creation of a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

*Reasonable student* means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of his/her age, or for a person of his/her age with his/her disability. (Education Code 48900(r))

(cf. 1114 - COE-Sponsored Social Media)

(cf. 5131.2 - Bullying)

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

(cf. 6164.6 - Identification and Education under Section 504)

19. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31. (Education Code 48900(t))

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

20. Made terrorist threats against school officials and/or school property. (Education Code 48900.7)

*A terrorist threat* includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$1,000, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out. (Education Code 48900.7)

A student in grades 4-12 is also subject to suspension or recommendation for expulsion when it is determined that he/she:

21. Committed sexual harassment as defined in Education Code 212.5 (Education Code 48900.2)

*Sexual harassment* means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment. (Education Code 212.5, 48900.2)

(cf. 5145.7 - *Sexual Harassment*)

22. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined in Education Code 233 (Education Code 48900.3)

*Hate violence* means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics. (Education Code 233; Penal Code 422.55)

(cf. 5145.9 - *Hate-Motivated Behavior*)

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

(cf. 5145.3 - *Nondiscrimination/Harassment*)

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

### **Removal from Class by a Teacher and Parental Attendance**

A teacher may remove a student from his/her class for the remainder of the day and the following day only for acts specified in Education Code 48900 and listed under "Grounds for Suspension and Expulsion" above. (Education Code 48910)

When removing a student from his/her class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, he/she shall be appropriately supervised during the class periods from which he/she has been removed. (Education Code 48910)

As soon as possible after the teacher decides to remove the student, he/she shall ask the student's parent/guardian to attend a parent-teacher conference regarding the removal. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests. (Education Code 48910)

A student removed from class shall not be returned to class during the period of removal without the approval of the teacher of the class and the principal or designee. (Education Code 48910)

A student removed from class shall not be placed in another regular class during the period of removal. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which he/she was removed. (Education Code 48910)

The teacher of any class from which a student is removed may require the student to complete any assignments and tests missed during the removal. (Education Code 48913)

Pursuant to Board policy, a teacher may require the parent/guardian of a student whom the teacher has removed to attend a portion of a school day in his/her child's classroom. When a teacher makes this request, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is requested pursuant to law. (Education Code 48900.1)

The notice shall:

1. Inform the parent/guardian when his/her presence is expected and by what means he/she may arrange an alternate date
2. State that if the parent/guardian does not have a means of transportation to school, he/she may ride the school bus with the student

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

3. Direct the parent/guardian to meet with the principal after the visit and before leaving school
4. Direct the parent/guardian to contact the school if there are reasonable factors that would prevent him/her from complying with the attendance requirement

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

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

1. Possessing, as verified by a COE employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence
2. Brandishing a knife as defined in Education Code 48915(g)
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
5. Possessing an explosive as defined in 18 USC 921

In addition, the Superintendent, principal, or designee may impose a suspension upon a first offense if he/she determines that the student violated any of items #1-5 listed under "Grounds for Suspension and Expulsion" above or if the student's presence causes a danger to persons. (Education Code 48900.5)

For all other offenses, a student may be suspended only when the Superintendent or principal has determined that other means of correction have failed to bring about proper conduct in the student. (Education Code 48900.5)

When other means of correction are implemented prior to imposing suspension or supervised suspension upon a student, the Superintendent, principal, or designee shall document the other means of correction used and retain them in the student's record. (Education Code 48900.5)

*(cf. 5125 - Student Records)*

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

### **Length of Suspension**

The Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days unless the suspension is extended pending expulsion. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year. However, when a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class for the purpose of adjustment, he/she may be suspended for not more than 30 school days in a school year. The COE may count suspensions that occur while a student is enrolled in another school district toward the maximum number of days for which the student may be suspended in any school year. (Education Code 48903, 48911, 48912)

*(cf. 6184 - Continuation Education)*

These restrictions on the number of days of suspension shall not apply when the suspension is extended pending an expulsion. (Education Code 48911)

### **Due Process Procedures for Suspension**

Suspensions shall be imposed in accordance with the following procedures:

1. **Informal Conference:** Suspension shall be preceded by an informal conference conducted by the Superintendent, principal, or designee with the student and, whenever practicable, the teacher, supervisor, or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for the disciplinary action, presented with the evidence against him/her, and given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911)

This conference may be omitted if the Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of the conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school. (Education Code 48911)

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

2. **Administrative Actions:** All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee. (Education Code 48911)
3. **Notice to Parents/Guardians:** At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the specific offense committed by the student. (Education Code 48900.8)

In addition, the notice may state the date and time when the student may return to school. If school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may add that state law requires the parent/guardian to respond to such requests without delay.

4. **Parent/Guardian Conference:** Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter. (Education Code 48914)

Although the parent/guardian is required to respond without delay to a request for a conference about his/her child's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such a conference. The student may not be denied reinstatement solely because the parent/guardian failed to attend the conference. (Education Code 48911)

5. **Extension of Suspension:** If the Board is considering the expulsion of a suspended student from any school or the suspension of a student for the balance of the semester from continuation school, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911)

Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold a conference concerning the extension, giving the student an opportunity to be heard. This conference may be held in conjunction with a meeting requested by the student or parent/guardian to challenge the original suspension. Extension of the suspension may be made only if the Superintendent or designee determines, following a meeting in which the student and the student's parent/guardian were invited to participate, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. (Education Code 48911)

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

If the student involved is a foster youth, the Superintendent or designee shall notify the district or COE liaison for foster youth of the need to invite the student's attorney and a representative of the appropriate county child welfare agency to attend the meeting. (Education Code 48853.5, 48911, 48918.1)

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

In addition to suspending a student, the Superintendent, principal, or designee may provide services or require the student to participate in an alternative disciplinary program designed to correct his/her behavior and keep him/her in school.

### **Suspension by the Board**

The Board may suspend a student for any of the acts listed under "Grounds for Suspension and Expulsion" above and within the limits specified under "Suspension by Superintendent, Principal, or Designee" above. (Education Code 48912)

The Board may suspend a student enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts listed under "Grounds for Suspension and Expulsion" occurred. The suspension shall meet the requirements of Education Code 48915. (Education Code 48912.5)

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it shall hold a closed session if a public hearing would lead to disclosure of information violating a student's right to privacy under Education Code 49073-49079. (Education Code 35146, 48912)

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

The Board shall provide the student and his/her parent/guardian with written notice of the closed session by registered or certified mail or personal service. Upon receiving this notice, the student or parent/guardian may request a public meeting, and this request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy still shall be held in closed session. (Education Code 35146, 48912)

### **Supervised Suspension Classroom**

A student for whom an expulsion action has not been initiated and who poses no imminent danger or threat to the school, students, or staff may be assigned to a supervised suspension classroom in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply: (Education Code 48911.1)



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

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

At the time a student is assigned to a supervised suspension classroom, the principal or designee shall notify the student's parent/guardian in person or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing. (Education Code 48911.1)

**Authority to Expel**

A student may be expelled only by the Board. (Education Code 48918(j))

The Board shall expel, as required by law, any student found to have committed any offense listed below under "Mandatory Recommendation and Mandatory Expulsion." (Education Code 48915)

For all other grounds listed above under "Grounds for Suspension and Expulsion," the Board shall order a student expelled, upon the recommendation of the Superintendent, principal, or designee, only if the Board makes a finding of either or both of the following: (Education Code 48915(b) and (e))

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

**Superintendent, Principal, or Designee's Authority to Recommend Expulsion**

Unless the Superintendent, principal, or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct, he/she shall recommend a student's expulsion for any of the following acts: (Education Code 48915(a))

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

1. Causing serious physical injury to another person, except in self-defense
2. Possession of any knife as defined in Education Code 48915(g) or other dangerous object of no reasonable use to the student
3. Unlawful possession of any controlled substance as listed in Health and Safety Code 11053-11058, except for (a) the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis, or (b) the student's possession of over-the-counter medication for his/her use or other medication prescribed for him/her by a physician
4. Robbery or extortion
5. Assault or battery, as defined in Penal Code 240 and 242, upon any school employee

In determining whether or not to recommend the expulsion of a student, the Superintendent, principal, or designee shall act as quickly as possible to ensure that the student does not lose instructional time. (Education Code 48915)

**Mandatory Recommendation and Mandatory Expulsion**

The Superintendent, principal, or designee shall recommend that the Board expel any student found at school or at a school activity to be: (Education Code 48915(c))

1. Possessing, as verified by a COE employee, selling, or otherwise furnishing a firearm, unless the student had obtained prior written permission to possess the firearm from a certificated school employee, with the principal or designee's concurrence  
  
However, possession of an imitation firearm, as defined in Education Code 48900(m), shall not be regarded as an offense requiring a mandatory recommendation for expulsion and mandatory expulsion.
2. Brandishing a knife as defined in Education Code 48915(g) at another person
3. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
4. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a, or 289, or committing a sexual battery as defined in Penal Code 243.4
5. Possessing an explosive as defined in 18 USC 921

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

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

**Student's Right to Expulsion Hearing**

Any student recommended for expulsion shall be entitled to a hearing to determine whether he/she should be expelled. The hearing shall be held within 30 school days after the Superintendent, principal, or designee determines that the student has committed one of the acts listed above under "Grounds for Suspension and Expulsion." (Education Code 48918(a))

The student is entitled to at least one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion. (Education Code 48918(a))

If the Board finds it impractical during the regular school year to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held. (Education Code 48918(a))

If the Board finds it impractical to comply with the time requirements of the expulsion hearing due to a summer recess of Board meetings of more than two weeks, the days during the recess shall not be counted as school days. The days not counted during the recess may not exceed 20 school days, as defined in Education Code 48925. Unless the student requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days prior to the first day of the next school year. (Education Code 48918(a))

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay. (Education Code 48918(a))

**Stipulated Expulsion**

After a determination that a student has committed an offense listed above under "Grounds for Suspension and Expulsion" for which expulsion is permitted or mandatory, the Superintendent, principal, or designee shall offer the student and his/her parent/guardian the option to waive a hearing and stipulate to the expulsion. The offer shall be made only after the student or his/her parent/guardian has been given written notice of the expulsion hearing pursuant to Education Code 48918.

The stipulation agreement shall be in writing and shall be signed by the student and his/her parent/guardian. The stipulation agreement shall include notice of all the rights that the student is waiving, including the waiving of his/her right to have a full hearing, to appeal the expulsion to the County Board of Education, and to consult legal counsel.

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

A stipulated expulsion shall be effective upon approval by the Board.

### **Rights of Complaining Witness**

An expulsion hearing involving allegations of sexual assault or sexual battery may be postponed for one school day in order to accommodate the special physical, mental, or emotional needs of a student who is the complaining witness. (Education Code 48918.5)

Whenever the Superintendent or designee recommends an expulsion hearing that addresses allegations of sexual assault or sexual battery, he/she shall give the complaining witness a copy of the COE's suspension and expulsion policy and regulation and shall advise the witness of his/her right to: (Education Code 48918.5)

1. Receive five days' notice of his/her scheduled testimony at the hearing
2. Have up to two adult support persons of his/her choosing present at the hearing at the time he/she testifies
3. Have a closed hearing during the time he/she testifies

Whenever any allegation of sexual assault or sexual battery is made, the Superintendent or designee shall immediately advise complaining witnesses and accused students to refrain from personal or telephone contact with each other during the time when an expulsion process is pending. (Education Code 48918.5)

### **Written Notice of the Expulsion Hearing**

Written notice of the expulsion hearing shall be forwarded to the student and the student's parent/guardian at least 10 calendar days before the date of the hearing. The notice shall include: (Education Code 48900.8, 48918(b))

1. The date and place of the hearing.
2. A statement of the specific facts, charges, and offense upon which the proposed expulsion is based.
3. A copy of COE disciplinary rules which relate to the alleged violation.
4. Notification of the student's or parent/guardian's obligation, pursuant to Education Code 48915.1, to provide information about the student's status in the COE to any other district in which the student seeks enrollment. This obligation applies when a student is expelled for acts other than those described in Education Code 48915(a) or (c).

*(cf. 5119 - Students Expelled from Other Districts)*

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

5. The opportunity for the student or the student's parent/guardian to appear in person or be represented by legal counsel or by a nonattorney advisor.

*Legal counsel* means an attorney or lawyer who is admitted to the practice of law in California and is an active member of the State Bar of California.

*Nonattorney advisor* means an individual who is not an attorney or lawyer, but who is familiar with the facts of the case and has been selected by the student or student's parent/guardian to provide assistance at the hearing.

6. The right to inspect and obtain copies of all documents to be used at the hearing.
7. The opportunity to confront and question all witnesses who testify at the hearing.
8. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

**Additional Notice of Expulsion Hearing for Foster Youth**

At least 10 days prior to a hearing to determine if a student who is a foster youth as defined under Education Code 48853.5 should be expelled for an offense not requiring a mandatory recommendation for expulsion, the Superintendent or designee shall notify the student's attorney and a representative of an appropriate county child welfare agency. If the hearing is pursuant to an offense requiring a mandatory expulsion recommendation, the Superintendent or designee may provide the same notification. The notice shall be provided by the most cost-effective method possible, including by email or a telephone call. (Education Code 48918.1)

**Conduct of Expulsion Hearing**

1. **Closed Session:** Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made, the meeting shall be public unless another student's privacy rights would be violated. (Education Code 48918(c))

Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to deliberate and determine whether or not the student should be expelled. If the Board admits any other person to this closed session, the parent/guardian, the student, and the counsel of the student also shall be allowed to attend the closed session. (Education Code 48918(c))

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

If a hearing that involves a charge of sexual assault or sexual battery is to be conducted in public, a complaining witness shall have the right to have his/her testimony heard in closed session when testifying in public would threaten serious psychological harm to the witness and when there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by closed-circuit television. (Education Code 48918(c))

2. **Record of Hearing:** A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48918(g))
3. **Subpoenas:** Before commencing a student expulsion hearing, the Board may issue subpoenas, at the request of either the student or the Superintendent or designee, for the personal appearance at the hearing of any person who actually witnessed the action that gave rise to the recommendation for expulsion. After the hearing has commenced, the Board or the hearing officer or administrative panel may issue such subpoenas at the request of the student or the County Superintendent of Schools or designee. All subpoenas shall be issued in accordance with Code of Civil Procedure 1985-1985.2 and enforced in accordance with Government Code 11455.20. (Education Code 48918(i))

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

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

4. **Presentation of Evidence:** Technical rules of evidence shall not apply to the expulsion hearing, but relevant evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel shall be supported by substantial evidence that the student committed any of the acts pursuant to Education Code 48900 and listed in "Grounds for Suspension and Expulsion" above. (Education Code 48918(h))

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

Findings of fact shall be based solely on the evidence at the hearing. Although no finding shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure of their identity or testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm. (Education Code 48918(f))

In cases where a search of a student's person or property has occurred, evidence describing the reasonableness of the search shall be included in the hearing record.

5. **Testimony by Complaining Witnesses:** The following procedures shall be observed when a hearing involves allegations of sexual assault or sexual battery by a student: (Education Code 48918, 48918.5)
  - a. Any complaining witness shall be given five days' notice before being called to testify.
  - b. Any complaining witness shall be entitled to have up to two adult support persons, including, but not limited to, a parent/guardian or legal counsel, present during his/her testimony.
  - c. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential.
  - d. The person presiding over the hearing may remove a support person whom he/she finds is disrupting the hearing.
  - e. If one or both support persons are also witnesses, the hearing shall be conducted in accordance with Penal Code 868.5.
  - f. Evidence of specific instances of prior sexual conduct of a complaining witness shall be presumed inadmissible and shall not be heard unless the person conducting the hearing determines that extraordinary circumstances require the evidence to be heard. Before such a determination is made, the complaining witness shall be given notice and an opportunity to oppose the introduction of this evidence. In the hearing on the admissibility of this evidence, the complaining witness shall be entitled to be represented by a parent/guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of a complaining witness shall not be admissible for any purpose.
  - g. In order to facilitate a free and accurate statement of the experiences of the complaining witness and to prevent discouragement of complaints, the COE shall provide a nonthreatening environment.

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

- (1) The COE shall provide a room separate from the hearing room for the use of the complaining witness before and during breaks in testimony.
  - (2) At the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he/she may leave the hearing room.
  - (3) The person conducting the hearing may:
    - (a) Arrange the seating within the hearing room so as to facilitate a less intimidating environment for the complaining witness
    - (b) Limit the time for taking the testimony of a complaining witness to the hours he/she is normally in school, if there is no good cause to take the testimony during other hours
    - (c) Permit one of the support persons to accompany the complaining witness to the witness stand
6. **Decision:** The Board's decision as to whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

**Alternative Expulsion Hearing: Hearing Officer or Administrative Panel**

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures applicable to a hearing conducted by the Board as specified above in "Conduct of Expulsion Hearing," including the requirement to issue a decision within 40 school days of the student's removal from school, unless the student requests that the decision be postponed. (Education Code 48918(a) and (d))

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not



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

recommended, the expulsion proceeding shall be terminated and the student shall be immediately reinstated. The Superintendent or designee shall place the student in a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs after consulting with COE staff, including the student's teachers, and with the student's parent/guardian. The decision to not recommend expulsion shall be final. (Education Code 48918(e))

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

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

**Final Action by the Board**

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

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

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

Upon ordering an expulsion, the Board shall set a date when the student shall be reviewed for readmission to a school within the COE. For a student expelled for any act listed under "Mandatory Recommendation and Mandatory Expulsion" above, this date shall be one year from the date the expulsion occurred, except that the Board may set an earlier date on a case-by-case basis. For a student expelled for other acts, this date shall be no later than the last day of the semester following the semester in which the expulsion occurred. If an expulsion is ordered during summer session or the intersession period of a year-round program, the Board shall set a date when the student shall be reviewed for readmission not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred. (Education Code 48916)

At the time of the expulsion order, the Board shall recommend a plan for the student's rehabilitation, which may include: (Education Code 48916)

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

1. Periodic review, as well as assessment at the time of review, for readmission
2. Recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs

With parent/guardian consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

### **Written Notice to Expel**

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. This notice shall include the following:

1. The specific offense committed by the student for any of the causes for suspension or expulsion listed above under "Grounds for Suspension and Expulsion" (Education Code 48900.8)
2. The fact that a description of readmission procedures will be made available to the student and his/her parent/guardian (Education Code 48916)
3. Notice of the right to appeal the expulsion to the County Board (Education Code 48918)
4. Notice of the alternative educational placement to be provided to the student during the time of expulsion (Education Code 48918)
5. Notice of the student's or parent/guardian's obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1 (Education Code 48918)

### **Decision Not to Enforce Expulsion Order**

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

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

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

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

1. The Board may, as a condition of the suspension of enforcement, assign the student to a school, class, or program appropriate for the student's rehabilitation. This rehabilitation program may provide for the involvement of the student's parent/guardian in the student's education. However, a parent/guardian's refusal to participate in the rehabilitation program shall not be considered in the Board's determination as to whether the student has satisfactorily completed the rehabilitation program. (Education Code 48917)
2. During the period when enforcement of the expulsion order is suspended, the student shall be on probationary status. (Education Code 48917)
3. The suspension of the enforcement of an expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the COE's rules and regulations governing student conduct. (Education Code 48917)
4. When the suspension of enforcement of an expulsion order is revoked, a student may be expelled under the terms of the original expulsion order. (Education Code 48917)
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a COE school. Upon reinstatement, the Board may order the expunging of any or all records of the expulsion proceedings. (Education Code 48917)
6. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal the expulsion to the County Board, the alternative educational placement to be provided to the student during the period of expulsion, and the student's or parent/guardian's obligation to inform any new COE in which the student seeks to enroll of his/her status with the expelling COE, pursuant to Education Code 48915.1(b). (Education Code 48918(j))
7. Suspension of the enforcement of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. (Education Code 48917)

**Right to Appeal**

The student or parent/guardian is entitled to file an appeal of the Board's decision with the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion order is suspended and the student is placed on probation. (Education Code 48919)

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

The student shall submit a written request for a copy of the written transcripts and supporting documents from the COE simultaneously with the filing of the notice of appeal with the County Board. The COE shall provide the student with these documents within 10 school days following the student's written request. (Education Code 48919)

### **Notification to Law Enforcement Authorities**

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance. In addition, law enforcement authorities shall be notified regarding any acts by students regarding the possession, sale, or furnishing of firearms, explosives, or other dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10. (Education Code 48902)

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind. (Education Code 48902)

### **Post-Expulsion Placements**

The Board shall refer expelled students to a program of study that is: (Education Code 48915, 48915.01)

1. Appropriately prepared to accommodate students who exhibit discipline problems
2. Not provided at a comprehensive middle, junior, or senior high school or at any elementary school, unless the program is offered at a community day school established at such a site
3. Not housed at the school site attended by the student at the time of suspension

*(cf. 6158 - Independent Study)*

*(cf. 6185 - Community Day School)*

When the placement described above is not available and when the County Superintendent so certifies, students expelled for acts described in items #6-13 and #21-23 under "Grounds for

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

Suspension and Expulsion" above may be referred to a program of study that is provided at another comprehensive middle, junior, or senior high school or at an elementary school. (Education Code 48915)

The program for a student expelled from any of grades K-6 shall not be combined or merged with programs offered to students in any of grades 7-12. (Education Code 48916.1)

**Readmission After Expulsion**

Readmission procedures shall be as follows:

1. On the date set by the Board when it ordered the expulsion, the COE shall consider readmission of the student. (Education Code 48916)
2. The Superintendent or designee shall hold a conference with the parent/guardian and the student. At the conference, the student's rehabilitation plan shall be reviewed and the Superintendent or designee shall verify that the provisions of this plan have been met. School regulations shall be reviewed and the student and parent/guardian shall be asked to indicate in writing their willingness to comply with these regulations.
3. The Superintendent or designee shall transmit to the Board his/her recommendation regarding readmission. The Board shall consider this recommendation in closed session if information would be disclosed in violation of Education Code 49073-49079. If a written request for open session is received from the parent/guardian or adult student, it shall be honored.
4. If the readmission is granted, the Superintendent or designee shall notify the student and parent/guardian, by registered mail, of the Board's decision regarding readmission.
5. The Board may deny readmission only if it finds that the student has not satisfied the conditions of the rehabilitation plan or that the student continues to pose a danger to campus safety or to other district students or employees. (Education Code 48916)
6. If the Board denies the readmission of a student, the Board shall determine either to continue the student's placement in the alternative educational program initially selected or to place the student in another program that serves expelled students, including placement in a county community school. (Education Code 48916)
7. The Board shall provide written notice to the expelled student and parent/guardian describing the reasons for denying readmittance into the regular program. This notice shall indicate the Board's determination of the educational program which the Board has chosen. The student shall enroll in that program unless the parent/guardian chooses to enroll the student in another school district. (Education Code 48916)

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

No student shall be denied readmission into the COE based solely on the student's arrest, adjudication by a juvenile court, formal or informal supervision by a probation officer, detention in a juvenile facility, enrollment in a juvenile court school, or other such contact with the juvenile justice system. (Education Code 48645.5)

**Maintenance of Records**

The COE shall maintain a record of each suspension and expulsion, including its specific cause(s). (Education Code 48900.8)

Expulsion records of any student shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by that school. (Education Code 48918(k))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this COE. (Education Code 48915.1)

*(cf. 5119 - Students Expelled from Other Districts)*

**STUDENT EXPULSION APPEALS**

The Lake County Board of Education shall hear and determine an appeal of an expulsion order issued against a student by a school district within the jurisdiction of the county.

A student expelled by the governing board of a school district or his/her parent/guardian (appellant) may appeal the expulsion to the County Board within 30 days of the school district's action. The appeal shall be filed in writing and shall include the following information:

1. Name of the expelled student
2. Contact address and telephone number of the student and/or parent/guardian
3. Name of respondent school Board
4. Date of respondent school Board's action to expel student
5. Ground(s) on which appeal is based

The appellant shall submit to the County Board, a certified copy of the written transcripts and supporting documents of the proceedings before the school district. Because delay in receiving the transcripts may prejudice the student's case, the student is encouraged to request a copy of the transcripts and other related records from the district no later than the date on which the appeal is filed. (Education Code 48921)

The County Board shall hold a hearing within 20 school days of the filing of the appeal. (Education Code 48919)

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon the student and the respondent school board, by certified mail, return receipt requested, a notice of the hearing including details such as the date, time and place of the hearing. The notice shall also contain a statement that the hearing shall be in closed session unless the student requests in writing at least five days prior to the hearing, that the hearing be conducted in open session.

**Conduct of Expulsion Hearing**

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Board shall hear an appeal of an expulsion order in closed session, unless the student requests in writing at least five days prior to the hearing that the hearing be conducted at a public meeting. If such request is made, the hearing shall be public unless another student's privacy rights would be violated. (Education Code 48920)

**STUDENT EXPULSION APPEALS** (continued)

Whether the expulsion hearing is held in closed or public session, the County Board may meet in closed session to deliberate on the appeal. If the County Board admits one of the parties or their representative(s) to the closed session, the other party or their representative(s) shall also be allowed to attend the closed session. (Education Code 48920)

2. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and complete written transcription of the proceedings can be made. (Education Code 48919)

**Scope of Review**

The County Board shall determine the appeal based on the record of the hearing before the district board and other applicable documentation and/or regulations. No evidence other than that contained in the record of proceedings of the district board shall be heard except in a *de novo* proceeding, granted pursuant to Education Code 48923. (Education Code 48921)

A *de novo* proceeding involves an independent determination by the County Board, of all the issues previously considered by the school district board.

The County Board's review shall be limited to: (Education Code 48922)

1. Whether the district board acted without or in excess of its jurisdiction.
2. Whether there was a fair hearing before the district board.
3. Whether there was a prejudicial abuse of discretion in the hearing. Abuse of discretion is established if:
  - a. School officials did not meet the procedural requirements of Education Code 48900-48926;
  - b. The decision to expel the student is not supported by the findings prescribed by Education Code 48915; or
  - c. The findings are not supported by the evidence
4. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the district board.



**STUDENT EXPULSION APPEALS** (continued)

**Final Order of the County Board**

The County Board shall render its final decision within three school days of the hearing unless the student requests a postponement. (Education Code 48919)

The County Board's decision shall be limited as follows: (Education Code 48923)

1. Where the County Board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded at the hearing before the district governing board, the County Board may remand the matter to the governing board for reconsideration or grant a hearing *de novo*.
2. Where the County Board determines that the governing board's decision is not supported by findings required to be made by Education Code 48915, but evidence supporting such findings exists in the record of the proceedings, the County Board shall remand the matter to the County Board for adoption and inclusion of the required findings.
3. In all other cases, the County Board shall either affirm or reverse the decision of the governing board. If the County Board reverses a governing board's decision, the County Board may direct the governing board to expunge all references to the expulsion action from the district and student's records, and the expulsion shall be deemed not to have occurred.

The decision of the County Board shall be final and binding upon the student and the governing board. The student and the governing board shall be notified of the final order of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered. (Education Code 48924)

*Legal Reference: (see next page)*

**STUDENT EXPULSION APPEALS (continued)**

*Legal Reference:*

EDUCATION CODE

1981 Enrollment of students  
17292.5 Program for expelled students  
35145 Public meetings  
35146 Closed sessions (re suspensions)  
35291 Rules (for government and discipline of schools)  
35291.5 Rules and procedures on school discipline  
48660-48666 Community day schools  
48900-48926 Suspension and expulsion  
48950 Speech and other communication  
49073-49079 Privacy of student records

GOVERNMENT CODE

11455.20 Contempt  
54950-54962 Ralph M. Brown Act (re closed sessions)

COURT DECISIONS

Board of Education of Sacramento City Unified School District v. Sacramento County Board of Education and Kenneth H., (2001) 85 Cal.App.4<sup>th</sup> 1321  
Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807  
Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal. App. 3d 1182  
John A. v. San Bernardino School District (1982) 33 Cal. 3d 301, 308

*Management Resources:*

CDE PROGRAM ADVISORIES

0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

WEB SITES

CDE: <http://www.cde.ca.gov>

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

**LAKE COUNTY BOARD OF EDUCATION  
EXPULSION APPEAL POLICY AND PROCEDURES**

**Expulsion Appeal Handbook**

TO ASSIST EXPELLED STUDENTS AND THEIR PARENTS/GUARDIANS IN  
UNDERSTANDING THE APPEAL PROCESS AND THE RIGHTS OF THE STUDENT

**April 2015**

The Lake County Board of Education sincerely thanks the Sacramento County Office of Education for providing its Handbook as a template for creation of this document, and Pat Hicks for the time and effort that she has spent helping to prepare this document.

The Lake County Board of Education Expulsion Appeal Policy and Procedure, as amended and approved by the Lake County Board of Education on November 13, 2013.

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

**Expulsion Appeal Handbook**

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## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

### **EXPULSION APPEAL HANDBOOK**

#### **INTRODUCTION**

The Lake County Board of Education has provided this Handbook to assist expelled pupils and the parent(s) or guardians of expelled pupils in understanding the appeal process and the rights of the pupil. The Handbook constitutes the official procedures adopted by the Board for conducting expulsion appeals. Particular attention should be paid to issues noted in italics. These issues have been found confusing to parents filing past appeals.

In this Handbook, the word "Parent" includes the parent(s), legal guardian, or legal counsel of the pupil, and the pupil.

The Lake County Board of Education is committed to an objective review of and deliberation upon appeals of students expelled from local school districts.

This information must be reviewed in conjunction with the laws on student discipline and expulsion appeals within the Education Code 48900-48924. (See <http://www.leginfo.ca.gov/calaw.html>)

Parents should also review the school districts policies and administrative procedures for suspension and expulsion. Parents are entitled to review the record of the school district's expulsion hearing and supporting records or documents. Parents have the right to consult with and engage the services of an advocate or an attorney at their own expense.

#### **WHAT IS THE PURPOSE OF AN APPEAL?**

The County Board of Education has a limited authority under law to review the procedures followed by the school district prior to expelling a pupil to determine: whether the Education Code was complied with; whether "due process" was afforded; and whether there is evidence to support to local governing board's findings and decision supporting the expulsion.

- The issues that the County Board of Education may consider are described more fully in this Handbook under "**SCOPE AND LIMITATIONS OF HEARING.**"
- The meeting at which the County Board of Education considers the Appeal *is not a new hearing to consider evidence about whether the pupil should have been expelled. The County Board will "hear" evidence only in unusual circumstances, when that evidence was not available or permitted to be introduced at the time of the hearing.* The purpose of the appeal meeting is to listen to argument as to whether the local school district procedures were proper.

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- *The County Board of Education does not have any authority to agree or disagree with the local school district governing board's decision to expel or to modify the expulsion on the basis that the penalty was too harsh for the misconduct.*

The County Board of Education has authority to review the appeal for legal errors. This may result in: (1) upholding the expulsion decision; (2) reversing the decision and returning the pupil to attend in the local district as well as expunging the record of the expulsion; or, (3) in rare cases, returning the case to the local school district either to consider additional evidence or to revise the factual findings.

- *A decision to overturn the expulsion and return the pupil to the local school district does not order attendance at the former school or at any particular school.* The local school district has authority to determine attendance within district programs.
- The County Board of Education's decision will address only expulsion issues. It will not review or order any change in the pupil's suspension pending expulsion.

### **WHEN MAY AN APPEAL BE FILED WITH THE LAKE COUNTY BOARD OF EDUCATION?**

The Parent of the expelled pupil may file an appeal with the County Board of Education *within thirty (30) calendar days* following the decision by the school district's governing board to expel the pupil.

- "Parent" includes parents, guardian, legal counsel, and the pupil. The pupil may also file an appeal independently of his/her Parents.
- *The thirty (30) day period starts on the date the school district governing board votes to expel* even if notice of the decision is not mailed to the Parent immediately. The appeal must be actually received within the thirty (30) days, not just mailed. If the deadline is on a Saturday, Sunday or County Office holiday, the appeal may be filed on the next business day.
- Only the governing board of a school district may expel a pupil. The principal of the pupil's school, or the superintendent of the school district may only recommend the expulsion to the governing board. A hearing officer or an administrative panel may conduct the expulsion hearing, develop findings of fact, and make a recommendation to the governing board. However, there is no expulsion until the school district's board takes formal action to expel.
- An expulsion or a suspended expulsion (where the pupil is returned to school with conditions of probation) may be appealed. The thirty (30) ) day time line applies from the initial suspended expulsion decision, not at a later date if the pupil is expelled for violating probation.

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

### **WHAT IF THE APPEAL IS LATE?**

The County Board of Education has no jurisdiction to consider a late appeal. Any appeal filed after the deadline will be returned accompanied by a cover letter indicating that the appeal was not processed.

### **QUESTIONS REGARDING FILING AN APPEAL**

A Parent considering whether to file an expulsion appeal with the County Board of Education and/or having any questions should contact by telephone:

Tracey Newell  
Phone: (707) 262-4102  
Fax: (707) 263-0197

Mail should be sent to the attention of this person at:

Lake County Office of Education  
1152 S Main Street  
Lakeport, CA 95453-5517

This person will answer questions and clarify the procedures outlined in this Handbook. This person will also contact the administration of the local school district that implemented the expulsion in order to coordinate the processing of the appeal.

### **SUBMITTING THE EXPULSION APPEAL**

The notice of appeal may be submitted in person or by mail to:

Tracey Newell  
Lake County Office of Education  
1152 S Main Street  
Lakeport, CA 95453-5517

### **WHAT MUST BE INCLUDED IN THE EXPULSION APPEAL**

The written notice of appeal must contain all of the following information:

- Name, address, and date of birth of the expelled pupil;
- Names, addresses and telephone numbers of the parents/guardians of the pupil and the person, if any, representing the pupil;
- School district, school, and grade from which the pupil was expelled;

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- The date of the school district governing board's decision to expel and the effective date of the expulsions.
- A brief statement or set of statements which explains why, in your opinion or belief, the decision of the school district governing board should be reversed. The statement(s) must relate to one or more of the conditions described in this Handbook under '**SCOPE AND LIMITATIONS OF THE HEARING.**' It is your responsibility to explain as clearly as you can and provide specific information about why you believe the school district governing board's decision should be reversed.
- (Attach a copy of the notice of expulsion sent by the local school district.)
- (Identifying New Evidence) You must clearly indicate whether you plan to offer new evidence that was not raised at the time the original expulsion hearing was held and describe such evidence. See '**SCOPE AND LIMITATIONS OF THE HEARING**' for a discussion of new evidence.

**PARENTS/GUARDIANS ARE ENCOURAGED TO USE THE "EXPULSION APPEAL AND REQUEST FOR HEARING" FORM (Addendum C) IN THIS HANDBOOK in lieu of writing a letter.**

**WHO IS RESPONSIBLE TO FILE THE TRANSCRIPT AND SUPPORTING RECORDS OF THE ORIGINAL EXPULSION PROCESS**

**A. Parent**

The Parent is responsible for immediately requesting the local school district to provide a transcript of the expulsion hearing and a copy of all documents from the first date of suspension.

- *At the same time the Parent files the appeal with the County Board of Education, he/she must submit to the expelling school district a written request for a copy of the written transcript of the expulsion hearing and all supporting documents or records. A '**REQUEST FOR TRANSCRIPT AND SUPPORTING DOCUMENTS**' form is provided at the back of this Handbook (Addendum D).*
- *The Parent shall file a copy of the request for transcript with the County Board of Education at the time of filing the appeal.*



## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

The Parent must pay the local school district for the cost of preparing the transcript and copies of supporting documents or records except in one of these situations:

- Where the Parent certifies to the school district that he/she cannot reasonably afford the cost of preparing the transcript because of limited income or exceptional necessary expenses, or both. **A form, 'CERTIFICATION OF INABILITY TO AFFORD COST OF TRANSCRIPT,' is provided at the back of this Handbook (Addendum E).**
- In a case where the County Board reverses the decision of the school district governing board, the County Board shall require that the school district governing board reimburse a Parent who has paid for the cost of preparing the transcript and supporting documents or records.

### **B. Local School District**

The local school district is responsible for preparing an accurate verbatim transcript of the expulsion hearing and copies of all hearing exhibits and all correspondence regarding the suspension and expulsion, including documentation reflecting the findings of fact and recommendation of the panel conducting the hearing and the governing board's action on the recommendation.

- *The school district shall prepare two copies of the transcript, supporting documents, and records within ten (10) school days following receipt of the Parent's written request.* The school district shall mail one copy of these documents directly to the County Board of Education with a second copy mailed to the Parent.
- *(Special Education Records)* If the expelled pupil was enrolled in special education (or was afforded the rights of a special education student prior to expulsion), the school district must identify substantiation in the hearing record (or provide additional documentation) that the legally required procedures were completed prior to commencing the expulsion hearing (e.g., compliance with Education Code § 48915.5 and related federal Law (34 CFR 300.520 -300.5241; See <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html>).

### **SETTING THE DATE FOR HEARING THE APPEAL**

Once the written transcript of the expulsion hearing and copies of the supporting documents or records have been filed with the County Office of Education, the County Superintendent of Schools will schedule a date for a meeting of the County Board of Education to consider the appeal.

- The County Board will hold a hearing within twenty (20) school days following the filing of the appeal.

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- The Parent may request a postponement by submitting a written request, including the reason, to the County Office of Education at least five (5) calendar days prior to the hearing. The request shall be acted upon by the County Superintendent of Schools within two days after determining whether the request is based upon good cause. Any request for postponement made less than five (5) calendar days prior to the hearing will be considered by the Board of Education at the hearing. The request may be granted only upon a finding that a compelling reason or an emergency exists.
- *Both the Parent and the school district will be sent notice of the hearing date by mail and telephone at least ten (10) calendar days before the hearing. Notice to the School District shall be given to both the principal of the school and the superintendent of the school district. The notice will specify the date, time, and place of the hearing. The Parents and the school district may waive the 10 day notice requirement by filling a written waiver with the County Board.*
- The County Board of Education holds regular meetings on the third Wednesday of each month at the Lake County Office of Education Board Room, 1152 South Main Street, Lakeport. Expulsion appeals are normally scheduled to commence at 5:00 p.m. The County Board of Education may be required to schedule a special meeting on a different date to hear the appeal depending upon its regular business.

The hearing will be held in closed session unless the Parent has requested a public session in writing either by an indication in the space provided on the "**EXPULSION APPEAL AND REQUEST FOR HEARING**" form (Addendum C of this Handbook) or by a separate written request filed with the County Office of Education at least five (5) calendar days prior to the hearing date.

**FILING WRITTEN ARGUMENTS PRIOR TO HEARING**

The Parent or a representative may file a written argument or an appeal brief with the County Board of Education. Any written argument must be filed at least ten (10) calendar days prior to the date set for the hearing before the County Board. The Parent must deliver a copy of the argument to the school district at the same time.

The school district also has the right to submit a written argument. The District's initial argument must be filed at least ten (10) calendar days prior to the hearing date.

If one party files a written argument, the other party's response, if any, shall be filed not less than five (5) days prior to the date of the hearing. The district shall also provide the Parent with a copy of its reply argument by personal service or by mailing not later than the date upon which the district's reply argument or brief is filed.

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES (continued)**

### **USE OF THE HEARING PACKET**

At the hearing, both the Parent and the district will receive from the County Office of Education a packet that will include all of the information that has been submitted during the appeal process. Use of the packet is very important in preparing for the appeal hearing.

The packet will contain:

(Tab 1) correspondence regarding the pupils suspension, expulsion and appeal;

(Tab 2) the transcript of the original expulsion hearing;

(Tab 3) documents presented at the original expulsion hearing;

(Tab 4) the local school district's expulsion policies;

(Tab 5) the County Board of Education expulsion appeal policies.

*Both parties are encouraged to refer to the page numbers of the original expulsion hearing transcript and other documents in this packet during their presentation. Referring to page numbers will assist the County Board of Education members in following the presentation.*

### **SCOPE AND LIMITATIONS OF THE HEARING**

The County Board of Education decides an appeal after:

- (1) Reviewing the expulsion record - i.e. the transcript and documents considered at the original expulsion hearing;
- (2) Considering issues raised by the Parent in the appeal as well as issues apparent from the record itself and the school district's arguments; and
- (3) Determining which issues it has authority under law to address.

**Please keep in mind that the County Board's charge is to determine if the pupils due process rights were violated in a manner that resulted in the pupil receiving an unfair hearing. It is not the charge of the County Board to agree or disagree with the school district governing board's decision to expel the pupil, but to ensure that procedures are followed and that a fair hearing was conducted.**

### **New Evidence**

**A REQUEST TO OFFER NEW EVIDENCE MUST BE NOTED WHEN FILING THE NOTICE OF APPEAL.**

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

The County Board will hear no "evidence" other than the information that is already contained in the transcript and record of the school district expulsion hearing. That information should consist only of witness testimony, written witness statements, and documents that were considered at the original expulsion hearing, plus official district records documenting the suspension, correspondence, and the appeal documents.

- Examples of "evidence" which may not be raised for the first time: Additional information about the facts surrounding the pupil's misconduct; the pupil's prior good behavior, or incidents occurring during the district investigation of the misconduct if the information was known or available prior to the original expulsion hearing. The evidence should have been offered at that hearing rather than now.
- Examples of proper "argument" to raise at the appeal hearing in support of an issue raised in the appeal: "The pupil denied being present when the school property was stolen during the investigation of the incident and during his testimony at the expulsion hearing. (See testimony, page 112, and witness statement, page 143.) No other non-hearsay evidence exists in the record to support the finding of fact that he participated in the theft. All of the evidence being referred to in this statement was already presented at the expulsion hearing.

*(Exception To Considering New Evidence.)* There is one (1) very limited exception to the County Board not considering new evidence. If the Parent proposes offer of new evidence, the County Board will allow an explanation of what the new evidence is and what issue it relates to (called an 'offer of proof) and the County Board will review the document in question.

The County Board will vote to allow new evidence, if a majority of the members find that the evidence qualifies as:

- Relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced at the school district expulsion hearing; or
- Relevant and material evidence which was improperly excluded at the school district expulsion hearing; and further, that
- The evidence, if received, would be a significant factor in determining the outcome of an issue in the case over which the County Board has jurisdiction to decide (Education Code 48922).

If the County Board votes to hear new evidence, it may either:

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- Remand (send) the matter to the school district governing board for reconsideration, along with such instructions the County Board may deem necessary. The County Board may order reconsideration of the entire matter or any part thereof. The County Board may order the pupil reinstated pending such reconsideration; or
- Grant a new hearing (a hearing de novo) before the County Board of Education upon reasonable notice to all parties and in conformance with regulations of the County Board.

**LEGAL ISSUES WHICH MAY BE CONSIDERED**

The County Board of Education's review of the case shall be limited to the following four questions. While these questions are phrased in 'Legal terminology' (based upon Code of Civil Procedure 1094.5(b) and (c)), there are many factual issues that fall within these questions.

**1. Whether the school district governing board acted within or in excess of its jurisdiction**

Explanation:

The Education Code spells out the reasons for which a pupil may be expelled, the timelines that must be met during expulsion proceedings, and that the misconduct must be related to school activities or attendance. If any of the laws on these subjects were not strictly complied with by the local school district, the final action to expel by the district governing board may have been in excess of its jurisdiction.'

For Example:

- Was the offense for which the pupil was expelled one of the "grounds" for expulsion authorized by state law or local board rule? A pupil may not be expelled unless the offense is a violation of the California Education Code or school rules adopted under Education Code 35291.5.
- If the expulsion was based on a local board rule, was the rule a reasonable and valid one and not inconsistent with state law?
- Did the situation involve conduct related to a school activity or to school attendance?
- Was the expulsion hearing commenced and a final decision issued within the time limits prescribed by law?

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

### **Special Education:**

If the pupil receives special education services, the County Board will also consider the following:

- Was there a pre-expulsion hearing of the individual education team prior to the expulsion hearing (Education Code 48915.5(a))?
- Was the Parent invited to attend the IEP team meeting (Education Code 48915.5(d)) 48 hours prior to the meeting?
- Was it determined during the IEP team meeting that the:
  - (a) Misconduct was not caused by a manifestation of the pupil's handicap.
  - (b) Pupil was appropriately placed at the time the misconduct occurred (Education Code 48915.5(h)).
  - (c) Was the suspension pending the expulsion hearing for more than 10 days without either the Parent's agreement or order by court (Education Code 48911(a) through (h) and 48912(a))?

NOTE: The school district does not have jurisdiction to expel a special education student unless the special education meetings and procedures required by Education Code 48915.5 have been completed.

## **2. Whether There Was A 'Fair Hearing' Before the Governing Board**

(The word 'fair' is a legal term. It does not mean fair in the every-day sense of "fair play" or "fair treatment." The County Board does not have authority to overturn an expulsion because another pupil received a suspension while your pupil was expelled arising from the same incident.)

### Explanation:

The school district is required to provide a parent/guardian timely notice of a hearing; allow the parent/guardian to hear and examine all evidence submitted; and provide the parent/guardian a reasonable opportunity to present evidence to deny, explain, or mitigate the allegations. (Education Code 48911(g) and 48918.) Although only the Governing Board may take action to expel, the Board may appoint an administrative panel or hearing officer to hear the case; develop 'findings of fact;' and make a recommended decision to the Board. Thus, an administrative panel or hearing officer may conduct the required fair hearing on behalf of the Board. A subsequent hearing before the Board is not required if the expulsion hearing is conducted by an administrative panel or a hearing officer.

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

For Example:

- Was the pupil denied the right to be represented by an advocate or by legal counsel?
  - Was the pupil prohibited from introducing testimony of witnesses on his/her behalf?
  - Was the evidence submitted in support of the expulsion the kind of evidence upon which reasonable persons are accustomed to rely in conduct of serious affairs?
  - Was there a failure to introduce any evidence to support the decision to expel?
  - Was the pupil or the pupil's representative, if any, given an opportunity to confront and question any witnesses who testified at the hearing except as provided in Education Code 48918(f) or 49918.5?
  - Was the parent/guardian adequately advised of his/her rights to fully participate in the hearing?
- 3. Whether there was a "prejudicial abuse of discretion" in the hearing (or in the processing of the expulsion)**

Explanation:

*(Abuse of Discretion)* An abuse of discretion (although not necessarily a prejudicial abuse) would be established under any of the following circumstances:

- (a) If the school district Board did not proceed with the expulsion in the manner required by law, or

A school district's violation of any statute governing the expulsion process that is not "jurisdictional," may still constitute an abuse of discretion.

For Example:

- Hearing panel member is from same school as pupil (Education Code 48918(d));
- Failure of Board to issue subpoena for witness in a timely manner (Education Code 48918(i));
- Parent/guardian received notice of hearing eight days in advance instead of 10 days in advance (Education Code 48918(b));

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- The Board issues expulsion decision with no date set to consider readmission of the pupil (Education Code.48916(a)).
- (b) If the decision to expel is not supported by the findings prescribed by Education Code 48915; or

(Factual Findings) A "finding" must be written in the expulsion decision describing the conduct the pupil engaged in which is a basis for the expulsion. The finding must spell out the facts (where, when, what) sufficiently to verify that the pupil engaged in misconduct. The finding must be based upon evidence provided during the expulsion hearing, not information provided to the panel members or Board members at another time.

The County Board has the option to return the case to the local district if it determines that the findings of fact are inadequate, but that evidence does exist in the record to support proper findings. Upon remand, the local school board would be required to revise the findings of fact consistent with the direction of the County Board. The second decision would be appealable again, but the likelihood of the decision being overturned by the County Board would be smaller.

- (c) **If the "findings of fact" made following the hearing are not supported by the evidence.**

Misconduct must be proven by reliable "first-hand" evidence offered during the expulsion hearing. Such evidence may consist of testimony by a witness who observed the misconduct or an admission of the pupil involved. All other statements made outside the hearing are considered "hearsay" evidence. Misconduct may not be proven solely by hearsay evidence, although hearsay may be offered to support reliable evidence.

For Example:

The finding that a pupil started a fight was not proven where the only evidence offered at hearing was by the vice-principal who testified that he talked to another who said "James started the fight." Neither James nor the other student testified during the hearing.

A written witness report from a yard duty aide was insufficient to prove that a pupil smoked marijuana where no other evidence was offered at hearing.

- (d) Abuse of discretion must be "prejudicial"



## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

The County Board must find that an abuse of discretion was prejudicial" to the outcome of the expulsion decision in order to overturn a decision. If an error occurred or a statutory requirement was only partially complied with, the violation must have a substantial impact on the process or decision to be "prejudicial."

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

### For Example:

- The parent/guardian received the notice of hearing two days late, but had plenty of time to prepare for the hearing. The parent/guardian attended the hearing and made no showing that the late notice affected her participation. (Abuse of discretion was not prejudicial.)
  - The notice of hearing was sent to the wrong address. The parent/guardian was never notified of the hearing and did not attend. The hearing was held anyway and the student expelled for misconduct. The parent/guardian objected as soon as he/she learned that the hearing had been held. The abuse was prejudicial to the right to participate in the hearing.
4. **Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the Board or the administrative panel** (See the discussion about offering new evidence above.)

## **APPEAL HEARING PROCEDURE**

### **1. Closed Session**

Expulsion appeals are heard by the County Board in closed session, unless the parent/guardian requests, in writing, an open session hearing. In closed session, only the parent/guardian, any representative, the pupil, and representatives of the local school district are permitted in the room with the County Board Members and their staff. In public session, any member of the public may attend the hearing.

### **2. Call to Order**

The Board President, or the designated presiding officer for the hearing, will call the hearing to order and describe the hearing procedures.

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

**3. Oath**

Each person in the room will be asked to identify himself/herself for the record. A tape recorder will be in operation throughout the hearing. All persons intending to speak on the matter shall be sworn in by the Board President. The form of oath should be as follows:

*"Do you solemnly swear (or affirm as the case may be) that the evidence you shall give in this matter pending before the Lake County Board of Education shall be the truth, sole truth, and nothing but the truth?"*

**4. New Evidence**

The parent/guardian (or the parents/guardians representative) will be asked to indicate whether he/she noted on the expulsion appeal form a request to offer 'new evidence' as part of the appeal hearing. If so, the County Board will listen to an "offer of proof" and decide whether new evidence should be allowed. If the parent/guardian proposes offer of new evidence, the County Board will allow an explanation of what the new evidence is and what issue it relates to (called an "offer of proof.")

The County Board will vote to allow new evidence, if a majority of the members find that the evidence qualifies as:

- Relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced at the school district expulsion hearing; or
- Relevant and material evidence which was improperly excluded at the school district expulsion hearing; and further, that
- The evidence, if received, would be a significant factor in determining the outcome of an issue in the case over which the County Board has jurisdiction to decide (Education Code 48922).

If the County Board votes to allow new evidence, it may either:

- Remand (send) the matter to the school district Board for reconsideration, along with such instructions the County Board may deem necessary. The County Board may order reconsideration of the entire matter or any part thereof. The County Board may order the pupil reinstated pending such reconsideration; or
- Grant a new hearing (a hearing de novo) before the County Board of Education upon reasonable notice to all parties and in conformance with regulations of the County Board.

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

### **5. Opening Statements**

Next, the Parent will be asked by the Board President to present an opening statement. This is an opportunity for the Parent to summarize or provide an overview of the issues in the appeal or to provide any background information that will be helpful to County Board members.

The representative of the school district will then be asked to make a statement reflecting the school districts position.

### **6. Presentation of Issues on Appeal**

The parent/guardian will then be allowed to identify the first issue identified in the appeal and to provide an argument in support of the appeal. The school district representative will be allowed to respond. Each issue will be identified in order by the parent/guardian with equal time for the school district to respond.

It is important here to remember to remain focused upon the record of the expulsion hearing, and on the four questions over which the County Board has authority to rule. They are:

1. Whether the Board acted without or in excess of its jurisdiction?
2. Whether there was a fair hearing by the school district?
3. Whether there was a prejudicial abuse of discretion by the school district in completing the expulsion procedures?
4. Whether there is relevant and material evidence, which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the Board?

The parent/guardian need not be concerned about making a polished presentation, but it is important to prepare the presentation in advance. Having notes or a prepared script may be of great help.

### **7. Issues Raised By County Board Members**

During and after each presentation, members of the County Board of Education may ask questions of the parent/guardian and of the school district's representative(s). County Board members may raise issues during the hearing based upon their own review of the hearing record. The appeal decision may be based upon these issues even if the parent/guardian does not raise them. Examples of issues commonly raised by County Board members are:

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- Has the additional finding been made that either: (1) the pupil has received lesser corrections which have not been effective; or (2) the pupil presents a danger to the physical safety of others or him/herself because of the nature of the misconduct?
- If such finding has been made, has the school district been able to point to the evidence in the record that supports the finding?
- Was the misconduct proven by evidence which shows first-hand knowledge or which is not hearsay (or an exception)?

County Board Members, school district representatives, and parents/guardians should review the entire hearing record prior to attending the hearing, and be prepared to discuss any issue raised at the appeal.

**8. County Board Deliberation.**

When the presentations and questioning are completed, the County Board will either retire to another room to deliberate or excuse from the Board Room all present except the County Board, the Board's legal advisor, the County Superintendent, and any necessary staff. If the County Board admits any other person to the closed deliberation session, the Parent, the pupil, and the counsel of the pupil shall be allowed to attend the closed deliberations.

No representative of the school district or the parent/guardian will be allowed to attend the deliberations.

In making its decision, the County Board will take into consideration all of the following:

- The County Board of Education may not substitute its judgment for the judgment of the school district Board.
- The County Board may not reverse a school district Board's decision because of technical inadequacies in the hearing process unless it first determines that the error was prejudicial.
- The County Board may not consider evidence other than that contained in the record of the proceedings of the school district Board except as noted in these rules.

**9. County Board Decision**

After deliberating, the County Board will reconvene and announce its decision.

## **LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

As the County Board of Education consists of five members, three affirmative votes are required to reverse an expulsion decision by a local school district Board irrespective of the quorum present at the appeal hearing. If the County Board enters a decision reversing the school Board's decision, the County Board may direct the school Board to expunge the record of the pupil and the records of the district of any references to the expulsion action and the expulsion shall be deemed not to have occurred.

Although the County Board must render a written decision within three school days of the hearing, it usually renders its verbal decision on the day of the hearing. The parent/guardian and the Board of the school district will be notified of the decision of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered.

### **PROCEDURE FOR DE NOVO HEARING**

If the County Board, upon a finding of newly discovered or improperly excluded evidence, decides to grant a de novo hearing, such hearing will be conducted pursuant to the following procedure:

#### **1. Hearing by County Board; Time Limit**

An expulsion hearing shall be held within 20 school days of the decision to grant a de novo hearing unless the pupil or the pupil's parent/guardian requests, in writing, that the hearing be postponed. Such request shall be made at least five days prior to the date of the hearing. In the event that compliance with the above time requirements is impracticable, the hearing may be delayed, for good cause, up to five additional school days.

#### **2. Written Notice of Hearing**

Written notice of the hearing shall be forwarded to the Appellant at least 10 days prior to the date of the hearing by the school district. Such notice shall include:

- a. The date, time and place of the hearing.
- b. A statement of the specific facts and charges upon which the proposed expulsion is based.
- c. A copy of the disciplinary rules of the district that relate to the violation.
- d. The opportunity of the pupil or the pupil's parent/guardian to:

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- (1) Appear in person or to employ and be represented by counsel,
- (2) Inspect and obtain copies of all documents to be used at the hearing,
- (3) Confront and question all witnesses who testify at the hearing,
- (4) Question all other evidence presented, and
- (5) Present oral and documentary evidence on the pupil's behalf, including witnesses.

**3. Closed Session**

The County Board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil or the pupil's parent/guardian requests, in writing at least five days prior to the hearing date, that the hearing be a public meeting. If such request is made of the County Board, the meeting shall be public.

**4. Presentation of Evidence**

The hearing shall proceed in the following manner, unless the person(s) conducting the hearing, for good cause, directs otherwise.

- a. A copy of this policy and a copy of Appellant's request for County Board review of expulsion shall be made part of the record at the beginning of the hearing.
- b. The school district, and then the Appellant, shall be given an opportunity to make an opening statement briefly summarizing their case, describing the evidence to be presented and how it supports their position.
- c. The school district, and then the Appellant, may present witnesses and other evidence subject to cross-examination by the other party. The Appellant may be called as a witness by the school district.
- d. Witnesses shall be sworn and testify under oath. The Board President or presiding officer will swear the witnesses. The form of oath should be as follows:

"Do you solemnly swear (or affirm as the case may be) that the evidence you shall give in this matter pending before the Lake County Board of Education shall be the truth, sole truth, and nothing but the truth?"

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

- e. The school district, and then the Appellant, may offer rebuttal evidence.
- f. The school district, and then the Appellant, may address the County Board conducting the hearing regarding the manner in which the evidence admitted during the hearing supports their position.

**5. Deliberation**

Regardless of whether the expulsion hearing is conducted in closed or public session, the County Board may meet in closed session for the purpose of deliberating and determining if the pupil should be expelled. If the County Board admits any other person to the closed deliberation session, the parent/guardian of the pupil, the pupil, and the counsel of the pupil shall be allowed to attend the closed deliberations.

**6. Record**

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

**7. Evidence**

Technical rules of evidence shall not apply to such hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to reply in the conduct of serious affairs. A decision of the County Board upholding the expulsion shall be supported by substantial evidence showing that the pupil committed any of the actions enumerated in Education Code 48900. At the hearing, the representative of the school district shall introduce into evidence (communicate to the County Board) the facts upon which the charges are made. If the incident was observed by persons, these persons should be called into the hearing to tell what they saw, heard, smelled, tasted, or otherwise observed. Relevant writings shall be presented to the County Board. Every fact upon which the charges against the students are based should be presented to them at the time of the hearing. County Board members may only consider facts presented to them at the time of the hearing. The district and the pupil may stipulate to (agree upon) what the facts are or what some of the facts are.

**8. Hearsay and Affidavits**

**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

Except as provided in this paragraph, no evidence to expel shall be based solely upon hearsay evidence. The County Board may, upon finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of 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 County Board. 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 pupil.

**9. Exclusion of Witnesses**

The County Board may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated, pursuant to Government Code 54957.

**10. Rights of Pupil or Parent/Guardian**

The pupil or his parent/guardian shall have the opportunity to:

- a. Appear in person or to employ and be represented by counsel
- b. Inspect and obtain copies of all documents to be used at the hearing
- c. Question all evidence presented
- d. Present oral and documentary evidence on the pupil's behalf, including witnesses
- e. Confront and question all witnesses who testify at the hearing

**11. Failure to Object**

If the pupil, parent/guardian, or the counsel of any of them, fails to object at the hearing that this policy is not being properly followed, or that any other law or requirement of due process is not being followed, any such ground for objection shall be deemed waived.

**12. Final Action of County Board**

Whether a pupil expulsion hearing is conducted in closed or public session, final action to expel shall be taken by the County Board at a public meeting. The County Board shall make specific findings and reach a decision.



**LAKE COUNTY BOARD OF EDUCATION EXPULSION APPEAL POLICY AND PROCEDURES** (continued)

**13. Three Days to Reach Decision**

A decision of the County Board whether to expel a pupil shall be made within three school days of the conclusion of the hearing, unless the pupil or the pupil's parent or guardian requests, in writing that such decision be postponed.

**14. Basis of Decision**

The County Board may uphold the expulsion of a student only if it makes the following specific findings:

- a. The principal or the superintendent recommends the expulsion; and
- b. The pupil committed one of the acts or omissions set forth in Education Code 48900 - 48900.8; and,
- c. When required by Education Code 48915, one of the following:
  - (1) That other means of correction are not feasible.
  - (2) That other means of correction have repeatedly failed to bring about proper conduct.
  - (3) Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others; and
- d. If the expelled individual is a special education student, the procedures set forth in Education Code 48915.5 have been followed. (Ref: Education Code 48915, 48915.5)

**ADDENDUMS - OBTAIN FROM LCOE OFFICE**

- A. FINDINGS AND DECISION OF THE COUNTY BOARD OF EDUCATION
- B. EXPULSION APPEAL HEARING TIMELINE
- C. FORM - EXPULSION APPEAL AND REQUEST FOR HEARING
- D. FORM - REQUEST FOR TRANSCRIPT AND SUPPORTING DOCUMENTS
- E. FORM - CERTIFICATION OF INABILITY TO AFFORD COST OF TRANSCRIPT

**QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT**

The Lake County Board of Education believes that the safety of Lake County Office of Education students and staff is essential to achieving the goal of student learning. In accordance with standards specified in law, law enforcement officers may interview and question students on school premises and may remove them when appropriate.

*(cf. 0450 - Comprehensive Safety Plan)*

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

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

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

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

*(cf. 5145.12 - Search and Seizure)*

The Lake County Superintendent of Schools shall collaborate with local law enforcement agencies to establish procedures which enable law enforcement officers to carry out their duties on school campus, including, when necessary, the questioning and/or apprehension of students.

When any law enforcement officer requests an interview with a student, the program manager/administrator or designee shall request the officer's identity, his/her official capacity, and the legal authority under which the interview is to be conducted. The program manager/administrator or designee shall maintain a record of all documentation relative to law enforcement interviews of students.

The program manager/administrator or designee shall accommodate the interview in a way that causes the least possible disruption for the student and school and provides the student appropriate privacy.

At the law enforcement officer's discretion and with the student's approval, the program manager/administrator or designee may be present during the interview.

Except in cases of child abuse or neglect, the program manager/administrator or designee shall attempt to notify the student's parent/guardian as soon as practicable after the law enforcement officer has interviewed the student on school premises.

If a minor student is removed from school into the custody of law enforcement, the program manager/administrator or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

**Subpoenas**

Although subpoenas may legally be served at school on students age 12 or older, the County Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. When served at school, the program manager/administrator or designee shall take reasonable steps to protect the student's privacy rights and to minimize loss of class time for the student.

*Legal Reference: (see next page)*

**QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT** (continued)

*Legal Reference:*

EDUCATION CODE

44807 *Duty concerning conduct of pupils*

48264 *Arrest of truants*

48265 *Delivery of truant*

48902 *Notice to law enforcement authorities*

48906 *Release of minor pupil to peace officers; notice to parent, guardian*

48909 *Narcotics and other hallucinogenic drugs (re arrest)*

CODE OF CIVIL PROCEDURE

416.60 *Service of summons or complaint to a minor*

PENAL CODE

830-832.17 *Peace officers*

1328 *Service of subpoena*

WELFARE AND INSTITUTIONS CODE

627 *Custody of minor*

CODE OF REGULATIONS, TITLE 5

303 *Duty to remain at school*

COURT DECISIONS

*Camreta v. Greene*, (2011) 131 S.Ct. 2020

*People v. Lessie*, (2010) 47 Cal. 4th 1152

*In re William V.*, (2003) 111 Cal.App.4th 1464

ATTORNEY GENERAL OPINIONS

54 *Ops.Cal.Atty.Gen.* 96 (1971)

34 *Ops.Cal.Atty.Gen.* 93 (1959)

*Management Resources:*

WEB SITES

*California Department of Justice, Office of the Attorney General: <http://oag.ca.gov>*

**SEARCH AND SEIZURE**

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

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

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

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

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

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

**Individual Searches**

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

Any search of a student, his/her property, or LCOE property under his/her control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the

## **SEARCH AND SEIZURE (continued)**

danger to the health or safety of students or staff, such as the possession of weapons, drugs, or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two LCOE employees.

The program manager/administrator or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

*(cf. 5145.11 - Questioning and Apprehension by Law Enforcement)*

### *Legal Reference:*

#### EDUCATION CODE

32280-32289 School safety plans

35160 Authority of governing boards

35160.1 Broad authority of school districts

48900-48927 Suspension and expulsion

49050-49051 Searches by school employees

49330-49334 Injurious objects

#### PENAL CODE

626.9 Firearms

626.10 Dirks, daggers, knives or razor

#### CALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

#### COURT DECISIONS

Redding v. Safford Unified School District, (9th Cir. 2008) 531 F.3d 1071

B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260

Jennings v. Joshua Independent School District, (5th Cir. 1989) 877 F.2d 313

O'Connor v. Ortega, (1987) 480 U.S. 709

New Jersey v. T.L.O., (1985) 469 U.S. 325

Horton v. Goose Creek Independent School District, (5th Cir. 1982) 690 F.2d 470

Zamora v. Pomeroy, (10th Cir. 1981) 639 F.2d 662

#### ATTORNEY GENERAL OPINIONS

83 Ops.Cal.Atty.Gen. 257 (2001)

75 Ops.Cal.Atty.Gen. 155 (1992)

*Management Resources: (see next page)*

**SEARCH AND SEIZURE** (continued)

*Management Resources:*

NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS

*The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999*

WEB SITES

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

California Attorney General's Office: <http://caag.state.ca.us>

California Department of Education, Safe Schools: <http://www.cde.ca.gov/lc/ss>

National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

**FREEDOM OF SPEECH/EXPRESSION**

The Lake County Board of Education and the Lake County Superintendent of Schools believe that free inquiry and exchange of ideas are essential parts of a democratic education. The County Board and County Superintendent respect students' rights to express ideas and opinions, take stands on issues, and support causes, even when such speech is controversial or unpopular.

*(cf. 6142.3 - Civic Education)*  
*(cf. 6144 - Controversial Issues)*

**On-Campus Expression**

Students shall have the right to exercise freedom of speech and of the press including, but not limited to, the use of bulletin boards; the distribution of printed materials or petitions; the wearing of buttons, badges, and other insignia; and the right of expression in official publications. (Education Code 48907)

Student expression on Lake County Office of Education or school Internet web sites and online media shall generally be afforded the same protections as in print media.

*(cf. 1113 - District and School Web Sites)*  
*(cf. 6163.4 - Student Use of Technology)*

Students' freedom of expression shall be limited only as allowed by Education Code 48907, 48950, and other applicable state and federal laws.

Students are prohibited from making any expressions or distributing or posting any materials that are obscene, libelous, or slanderous. Students also are prohibited from making any expressions that so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of school rules, or substantial disruption of the school's orderly operation. (Education Code 48907)

*(cf. 5145.7 - Sexual Harassment)*  
*(cf. 5145.9 - Hate-Motivated Behavior)*

The use of "fighting words" or epithets is prohibited in those instances where the speech is abusive and insulting, rather than a communication of ideas, and the speech is used in an abusive manner in a situation that presents an actual danger that it will cause a breach of the peace.

School officials shall not engage in prior restraint of material prepared for official school publications except insofar as the content of the material violates the law. (Education Code 48907)

**FREEDOM OF SPEECH/EXPRESSION** (continued)

The County Superintendent shall not discipline any high school student solely on the basis of speech or other communication that would be constitutionally protected when engaged in outside of school, but may impose discipline for harassment, threats, or intimidation unless constitutionally protected. (Education Code 48950)

*(cf. 5137 - Positive School Climate)*

*(cf. 5144 - Discipline)*

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

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

**Off-Campus Expression**

A student shall be subject to discipline for off-campus expression, including expression on off-campus Internet web sites, when such expression poses a threat to the safety of other students, staff, or school property, or substantially disrupts the educational program. The County Superintendent or designee shall document the impact the expression had or could be expected to have on the school program.

*(cf. 5131 - Conduct)*

*Legal Reference: (see next page)*



**FREEDOM OF SPEECH/EXPRESSION (continued)**

*Legal Reference:*

EDUCATION CODE

48907 *Exercise of free expression; rules and regulations*

48950 *Speech and other communication*

51520 *Prohibited solicitations on school premises*

UNITED STATES CODE, TITLE 20

4071-4074 *Equal Access Act*

CALIFORNIA CONSTITUTION

Article 1, Section 2 *Freedom of speech and expression*

U.S. CONSTITUTION

Amendment 1 *Freedom of speech and expression*

COURT DECISIONS

*Smith v. Novato Unified School District*, (2007) 150 Cal.App.4th 1439

*Lavine v. Blaine School District*, (2001) 257 F.3d 981

*Emmett v. Kirkland School District No. 415*, (2000) 92 F.Supp. 2d 1088

*J.S. v. Bethlehem Area School District*, (2000) 757 A.2d 412 (Pa. Commw. 2000)

*Beussink v. Woodland R-IV School District*, (1998) 30 F.Supp. 2d 1175

*Muller v. Jefferson Lighthouse School*, (1996) 98 F.3d 1530

*Lovell v. Poway Unified School District*, (1996) 90 F.3d 367

*Hazelwood School District v. Kuhlmeier*, (1988) 108 S. Ct. 562

*Leeb v. DeLong*, (1988) 198 Cal.App.3d 47

*Bethel School District No. 403 v. Fraser*, (1986) 478 U.S. 675

*Bright v. Los Angeles Unified School District*, (1976) 18 Cal. 3d 350

*Tinker v. Des Moines Independent Community School District*, (1969) 393 U.S. 503

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

*Limitations on Student Expression in School-Sponsored Publications*, March 4, 1988

WEB SITES

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

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

**FREEDOM OF SPEECH/EXPRESSION**

**School-Sponsored Publications**

Students shall have the right to exercise freedom of speech and of the press in official school publications, except for expression that is obscene, libelous, slanderous, or so incites students as to create a clear and present danger of the commission of unlawful acts on school premises, the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school. (Education Code 48907)

*Official school publications* includes material produced by students in journalism, newspaper, yearbook, or writing classes and distributed to the student body either for a fee or free. (Education Code 48907)

Each program manager/administrator shall develop a school publications code outlining the responsibility of student journalists, editors, and publication advisors.

All student submissions shall be held to professional standards of English and journalism. (Education Code 48907)

If the program manager/administrator considers material submitted for publication to violate Education Code 48907, he/she shall notify the student, without undue delay, and give specific reasons why the submitted material may not be published. Absent extraordinary circumstances, such notice should be given in sufficient time to allow the student time to either modify the material or to seek review of the program manager/administrator's determination from the Lake County Superintendent of Schools. Prior to any restriction of student speech, school officials shall consider any feasible alternative options to restricting the speech.

**Distribution of Printed Materials and Petitions by Students**

The program manager/administrator or designee may provide bulletin boards on which students and student organizations may post materials of general interest. Students also may post or distribute handbills, leaflets, and other printed material, whether produced within or outside of the school. Students may collect signatures on petitions concerning school or nonschool issues.

*(cf. 1325 - Advertising and Promotion)*

*(cf. 6145.5 - Student Organizations and Equal Access)*

Printed materials or petitions may be distributed only:

1. Before or after school or during lunch time
2. In locations that do not obstruct the normal flow of traffic within the school or at entrances

**FREEDOM OF SPEECH/EXPRESSION** (continued)

No student shall use coercion to induce any other student or person to accept printed matter or to sign a petition. No funds shall be collected for any material distributed.

*(cf. 5131 - Conduct)*

**Clothing, Buttons, and Badges**

Buttons, badges, armbands, and clothing bearing slogans or sayings may be worn unless their message falls into the categories prohibited by law and Board policy. No employee shall interfere with this practice on the grounds that the message may be controversial or unpopular with students or faculty.

*(cf. 5131.4 - Student Disturbances)*

*(cf. 5132 - Dress and Grooming)*

*(cf. 5136 - Gangs)*

*(cf. 5144 - Discipline)*

**NONDISCRIMINATION/HARASSMENT**

The Board and County Superintendent of Schools desires to provide a safe school environment that allows all students equal access and opportunities in the County Office of Education's academic and other educational support programs, services, and activities. The Board and Superintendent prohibit, at any district school or school activity, unlawful discrimination, harassment, intimidation, and bullying of any student based on the student's actual race, color, ancestry, national origin, ethnic group identification, age, religion, marital or parental status, physical or mental disability, sex, sexual orientation, gender, gender identity, or gender expression; the perception of one or more of such characteristics; or association with a person or group with one or more of these actual or perceived characteristics.

This policy shall apply to all acts related to school activity or to school attendance occurring within a County Office of Education school. (Education Code 234.1)

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.9 - Hate-Motivated Behavior)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 6164.6 - Identification and Education Under Section 504)*

Prohibited discrimination, harassment, intimidation, or bullying includes physical, verbal, nonverbal, or written conduct based on one of the categories listed above that is so severe or pervasive that it affects a student's ability to participate in or benefit from an educational program or activity; creates an intimidating, threatening, hostile, or offensive educational environment; has the effect of substantially or unreasonably interfering with a student's academic performance; or otherwise adversely affects a student's educational opportunities.

The Board and County Superintendent of Schools also prohibits any form of retaliation against any student who files a complaint or report regarding an incident of discrimination, harassment, intimidation, or bullying.

The Superintendent or designee shall facilitate students' access to the educational program by publicizing the County Office of Education's nondiscrimination policy and related complaint procedures to students, parents/guardians, and employees. He/she shall provide training and information on the scope and use of the policy and complaint procedures and take other measures designed to increase the school community's understanding of the requirements of law related to discrimination. The Superintendent or designee shall regularly review the implementation of the County Office of Education's nondiscrimination policies and practices and, as necessary, shall take action to remove any identified barrier to student access to or participation in the educational program. He/she shall report his/her findings and recommendations to the Board after each review.

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 1330 - Use of Facilities)*

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

SP/BP 5145.3(b)

## **NONDISCRIMINATION/HARASSMENT** (continued)

(cf. 6145 - Extracurricular and Cocurricular Activities)  
(cf. 6145.2 - Athletic Competition)  
(cf. 6164.2 - Guidance/Counseling Services)

Students who engage in discrimination, harassment, intimidation, bullying, or retaliation in violation of law, Board policy, or administrative regulation shall be subject to appropriate consequence or discipline. Any employee who permits or engages in prohibited discrimination, harassment, intimidation, bullying, or retaliation shall be subject to disciplinary action, up to and including dismissal.

(cf. 4118 - Suspension/Disciplinary Action)  
(cf. 4119.21/4219.21/4319.21 - Professional Standards)  
(cf. 4218 - Dismissal/Suspension/Disciplinary Action)  
(cf. 5144 - Discipline)  
(cf. 5144.1 - Suspension and Expulsion/Due Process)  
(cf. 5144.2 - Suspension and Expulsion/Due Process (Students with Disabilities))  
(cf. 5145.2 - Freedom of Speech/Expression)

### *Legal Reference:*

#### EDUCATION CODE

200-262.4 Prohibition of discrimination  
48900.3 Suspension or expulsion for act of hate violence  
48900.4 Suspension or expulsion for threats or harassment  
48904 Liability of parent/guardian for willful student misconduct  
48907 Student exercise of free expression  
48950 Freedom of speech  
48985 Translation of notices  
49020-49023 Athletic programs  
51500 Prohibited instruction or activity  
51501 Prohibited means of instruction  
60044 Prohibited instructional materials

#### CIVIL CODE

1714.1 Liability of parents/guardians for willful misconduct of minor

#### PENAL CODE

422.55 Definition of hate crime  
422.6 Crimes, harassment

#### CODE OF REGULATIONS, TITLE 5

432 Student record  
4600-4687 Uniform complaint procedures  
4900-4965 Nondiscrimination in elementary and secondary education programs

*Legal Reference continued: (see next page)*

**NONDISCRIMINATION/HARASSMENT (continued)**

*Legal Reference: (continued)*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX of the Education Amendments of 1972*

UNITED STATES CODE, TITLE 42

2000d-2000e-17 *Title VI and Title VII Civil Rights Act of 1964, as amended*

2000h-2-2000h-6 *Title IX of the Civil Rights Act of 1964*

CODE OF FEDERAL REGULATIONS, TITLE 34

100.3 *Prohibition of discrimination on basis of race, color or national origin*

104.7 *Designation of responsible employee for Section 504*

106.8 *Designation of responsible employee for Title IX*

106.9 *Notification of nondiscrimination on basis of sex*

COURT DECISIONS

*Donovan v. Poway Unified School District, (2008) 167 Cal.App.4th 567*

*Flores v. Morgan Hill Unified School District, (2003) 324 F.3d 1130*

*Management Resources:*

CSBA PUBLICATIONS

*Providing a Safe, Nondiscriminatory School Environment for Transgender and Gender-Nonconforming Students, Policy Brief, February 2014*

*Interim Guidance Regarding Transgender Students, Privacy, and Facilities, September 27, 2013*

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

FIRST AMENDMENT CENTER PUBLICATIONS

*Public Schools and Sexual Orientation: A First Amendment Framework for Finding Common Ground, 2006*

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

*Dealing with Legal Matters Surrounding Students' Sexual Orientation and Gender Identity, 2004*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Dear Colleague Letter: Harassment and Bullying, October 2010*

*Notice of Non-Discrimination, January 1999*

WEB SITES

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

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

California Safe Schools Coalition: <http://www.casafeschools.org>

First Amendment Center: <http://www.firstamendmentcenter.org>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

**NONDISCRIMINATION/HARASSMENT**

The following position is designated Coordinator for Nondiscrimination to handle complaints regarding discrimination, harassment, intimidation, or bullying and to answer inquiries regarding the district's nondiscrimination policies: (Education Code 234.1; 5 CCR 4621)

Senior Director, Human Resources and Student Programs

1152 S. Main Street, Lakeport, CA 95453

707-262-4100

*(cf. 1312.1 - Complaints Concerning District Employees)*  
*(cf. 1312.3 - Uniform Complaint Procedures)*

To prevent discrimination, harassment, intimidation, and bullying of students at County Office of Education schools or in school activities and to ensure equal access of all students to the educational program, the Superintendent or designee shall implement the following measures:

1. Provide to employees, volunteers, and parents/guardians training and information regarding the County Office of Education's nondiscrimination policy; what constitutes prohibited discrimination, harassment, intimidation, or bullying; how and to whom a report of an incident should be made; and how to guard against segregating or stereotyping students when providing instruction, guidance, supervision, or other services to them. Such training and information shall include guidelines for addressing issues related to transgender and gender-nonconforming students.

*(cf. 1240 - Volunteer Assistance)*  
*(cf. 4131 - Staff Development)*  
*(cf. 4231 - Staff Development)*  
*(cf. 4331 - Staff Development)*

2. Provide to students a handbook that contains age-appropriate information that clearly describes the County Office of Education's nondiscrimination policy, procedures for filing a complaint, and resources available to students who feel that they have been the victim of any such behavior. (Education Code 234.1)
3. Annually notify all students and parents/guardians of the County Office of Education's nondiscrimination policy and of the opportunity to inform the Coordinator whenever a student's participation in a sex-segregated school program or activity together with another student of the opposite biological sex would be against the student's religious beliefs and/or practices or a violation of his/her right to privacy. In such a case, the Coordinator shall meet with the student and/or parent/guardian to determine how best to accommodate the student.

## **NONDISCRIMINATION/HARASSMENT** (continued)

4. Publicize the County Office of Education's nondiscrimination policy and related complaint procedures to students, parents/guardians, employees, volunteers, and the general public and post them on the County Office of Education's web site and other locations that are easily accessible to students. (Education Code 234.1)

(cf. 1113 - District and School Web Sites)

(cf. 1114 - District-Sponsored Social Media)

5. When 15 percent or more of a school's students speak a single primary language other than English, translate the nondiscrimination policy, related complaint procedures, and all forms for use in the complaint process into that other language. (Education Code 234.1, 48985)
6. At the beginning of each school year, inform school employees that any employee who witnesses any act of discrimination, harassment, intimidation, or bullying against a student is required to intervene if it is safe to do so. (Education Code 234.1)
7. At the beginning of each school year, inform each principal or designee of the district's responsibility to provide appropriate accommodation(s) to protect students' privacy rights and ensure their safety from threatened or potentially harassing, intimidating, or discriminatory behavior.

### **Process for Initiating and Responding to Complaints**

Any student who feels that he/she has been subjected to discrimination, harassment, intimidation, or bullying should immediately contact the Coordinator, the principal, or any other staff member. In addition, any student who observes any such incident should report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Any school employee who observes an incident of discrimination, harassment, intimidation, or bullying or to whom such an incident is reported shall immediately report the incident to the Coordinator or principal, whether or not the victim files a complaint.

Upon receiving a complaint of discrimination, harassment, intimidation, or bullying, the Coordinator shall immediately investigate the complaint in accordance with the County Office of Education's uniform complaint procedures specified in AR 1312.3 - Uniform Complaint Procedures.

### **Transgender and Gender-Nonconforming Students**

*Gender identity* means a person's gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth.



**NONDISCRIMINATION/HARASSMENT** (continued)

*Gender expression* means a person's gender-related appearance and behavior, whether or not stereotypically associated with the person's assigned sex at birth. (Education Code 210.7)

*Transgender student* means a student whose gender identity or gender expression is different from that traditionally associated with the assigned sex at birth.

*Gender-nonconforming student* means a student whose gender expression differs from stereotypical expectations.

To ensure that transgender and gender-nonconforming students are afforded the same rights, benefits, and protections provided to all students by law and Board policy, the County Office of Education shall address each situation on a case-by-case basis, in accordance with the following guidelines:

1. **Right to privacy:** A student's transgender or gender-nonconforming status is his/her private information and the County Office of Education will only disclose the information to others with the student's prior consent, except when the disclosure is otherwise required by law or is necessary to preserve the student's physical or mental well-being. Any County Office of Education employee to whom a student discloses his/her transgender or gender-nonconforming status shall seek the student's permission to notify the Coordinator for Nondiscrimination. If the student refuses to give permission, the employee shall keep the student's information confidential, unless he/she is required to disclose or report the student's information pursuant to law or County Office of Education policy, and shall inform the student that it may be impossible to accommodate the student's needs related to his/her status as a transgender or gender-nonconforming student. If the student permits the employee to notify the Coordinator, the employee shall do so within three school days.

As appropriate, the Coordinator shall discuss with the student any need to disclose the student's transgender or gender-nonconformity status to his/her parents/guardians and/or others, including other students, teacher(s), or other adults on campus. Any decision to disclose the student's status to others shall be based on the student's best interest.

(cf. 1340 - Access to District Records)

(cf. 3580 - District Records)

2. **Determining a Student's Gender Identity:** The Coordinator shall accept the student's assertion unless County Office of Education personnel present a credible basis for believing that the student's assertion is for an improper purpose. In such a case, the Coordinator shall document the improper purpose and, within seven school days of

receiving notification of the student's assertion, shall provide a written response to the student and, if appropriate, to his/her parents/guardians.

3. **Addressing a Student's Transition Needs:** The Coordinator shall arrange a meeting with the student and, if appropriate, his/her parents/guardians to identify potential issues, including transition-related issues, and to develop strategies for addressing them. The meeting shall discuss the transgender or gender-nonconforming student's rights and how those rights may affect and be affected by the rights of other students and shall address specific subjects related to the student's access to facilities and to academic or educational support programs, services, or activities, including, but not limited to, sports and other competitive endeavors. In addition, the Coordinator shall identify specific school site employee(s) to whom the student may report any problem related to his/her status as a transgender or gender-nonconforming individual, so that prompt action could be taken to address it.
4. **Accessibility to Sex-segregated Facilities, Programs, and Activities:** The County Office of Education may maintain sex-segregated facilities, such as restrooms and locker rooms, and sex-segregated programs and activities, such as physical education classes, intermural sports, and interscholastic athletic programs. A student shall be entitled to access facilities and participate in programs and activities consistent with his/her gender identity. In addition, a student shall be permitted to participate in accordance with his/her gender identity in other circumstances where students are separated by gender, such as for class discussions, yearbook pictures, and field trips. However, a student's right to participate in a sex-segregated activity in accordance with his/her gender identity shall not render invalid or inapplicable any other eligibility rule established for participation in the activity.

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

*(cf. 6145.2 - Athletic Competition)*

*(cf. 6153 - School-Sponsored Trips)*

*(cf. 7110 - Facilities Master Plan)*

5. **Student Records:** A student's legal name or gender as entered on the mandatory student record required pursuant to 5 CCR 432 shall only be changed pursuant to a court order. However, at the written request of a student or, if appropriate, his/her parents/guardians, the district shall use the student's preferred name and pronouns consistent with his/her gender identity on all other district-related documents.

*(cf. 5125 - Student Records)*

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

6. **Names and Pronouns:** If a student so chooses, County Office of Education personnel shall be required to address the student by a name and the pronouns consistent with his/her gender identity, without the necessity of a court order or a change to his/her official County Office of Education record. However, inadvertent slips or honest mistakes by County Office of Education personnel in the use of the student's name and/or consistent pronouns shall not constitute a violation of this administrative regulation or the accompanying County Office of Education policy.

AR 5145.3(e)

**NONDISCRIMINATION/HARASSMENT** (continued)

7. Uniforms/Dress Code: A student has the right to dress in a manner consistent with his/her gender identity, subject to any dress code adopted on a school site.

*(cf. 5132 - Dress Code)*

**PARENTAL NOTIFICATIONS**

The Lake County Board of Education and the Lake County Superintendent of Schools recognize that notifications are essential to effective communication between the school and the home. The County Superintendent shall send students and parents/guardians all notifications required by law, including notifications about their legal rights, and any other notifications he/she believes will promote parental understanding and involvement.

*(cf. 5020 - Parent Rights and Responsibilities)*  
*(cf. 5022 - Student and Family Privacy Rights)*  
*(cf. 6020 - Parent Involvement)*

The County Superintendent or designee shall ensure that notifications which must be sent at the beginning of each academic year include a request that the parent/guardian sign the notice and return it to the school. (Education Code 48981, 48982)

Notifications to parents/guardians shall be written both in English and in the family's primary language when so required by law. Whenever an employee learns that a student's parent/guardian is for any reason unable to understand the Lake County Office of Education's printed notifications, the program manager/administrator or designee shall work with the parent/guardian to establish other appropriate means of communication.

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

*Legal Reference: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference:*

EDUCATION CODE

- 221.5 Prohibited sex discrimination*
- 231.5 Sexual harassment policy*
- 262.3 Appeals; information re: availability of civil remedies*
- 310 Structured English Immersion Program*
- 17288 Pupils: school buildings*
- 17612 Notification of pesticide use*
- 32255-32255.6 Right to refuse harmful or destructive use of animals*
- 32390 Fingerprint program; contracts; funding; consent of parent/guardian*
- 35178.4 Notice of accreditation status*
- 35183 School dress codes; uniforms*
- 35186 Complaints concerning deficiencies in instructional materials and facilities*
- 35256 School accountability report card*
- 35291 Rules*
- 37616 Consultation*
- 39831.5 School bus rider rules and information*
- 44808.5 Permission to leave school grounds*
- 46010.1 Notice re: excuse to obtain confidential medical services*
- 46014 Regulations regarding absences for religious purposes*
- 46600-46611 Interdistrict attendance agreements especially:*
  - 46601 Failure to approve interdistrict attendance*
- 48000 Minimum age of admission*
- 48070.5 Promotion or retention of students*
- 48205 Absence for personal reasons*
- 48206.3 Pupils with temporary disabilities; individual instruction; definitions*
- 48207 Pupils with temporary disabilities in hospitals outside of school district*
- 48208 Students with temporary disabilities in qualifying hospitals*
- 48216 Immunization*
- 48260.5 Notice to parent re truancy*
- 48263 Referral to SARB or probation department*
- 48432.5 Involuntary transfers of pupils*
- 48904 Liability of parent/guardian for willful pupil misconduct*
  - 48904.3 Withholding grades, diplomas, or transcripts*
- 48906 Notification of release of pupil to peace officer*
- 48911 Notification in case of suspension*
- 48912 Closed sessions; consideration of suspension*
- 48915.1 Expelled individuals: enrollment in another district*
- 48916 Readmission procedures*
- 48918 Rules governing expulsion procedures*
- 48980 Required notification at beginning of term*
  - 48980.3 Notification of pesticide use*
- 48981 Time and means of notification*

*Legal Reference continued: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference: (continued)*

EDUCATION CODE (continued)

- 48982 *Signature; return to school; effect of signature*
- 48983 *Contents of notice*
- 48984 *Activities prohibited unless notice given*
- 48985 *Notices to parents in language other than English*
- 48987 *Child abuse information*
- 49063 *Notification of parents of their rights*
- 49067 *Regulations regarding pupil's achievement*
- 49068 *Transfer of permanent enrollment and scholarship record*
- 49069 *Absolute right to access*
- 49070 *Challenging content of records*
- 49073 *Release of directory information*
- 49076 *Access to student records*
- 49077 *Access to information concerning a student in compliance with court order*
- 49091.14 *Prospectus*
- 49302 *Parental consent*
- 49332 *Notifications of retention of object by school personnel; release*
- 49403 *Cooperation in control of communicable disease and immunization*
- 49423 *Administration of prescribed medication for pupil*
- 49451 *Physical examinations: parent's refusal to consent*
- 49452.5 *Screening for scoliosis*
- 49452.7 *Information on type 2 diabetes*
- 49456 *Report to parent*
- 49472 *Medical and hospital services for pupils*
- 49480 *Continuing medication regimen for nonepisodic conditions*
- 49510-49520 *Duffy-Moscone Family Nutrition Education and Services Act of 1970*
- 51229 *Course of study for grades 7-12*
- 51513 *Personal beliefs*
- 51938 *Right of parent/guardian notice HIV/AIDS and sexual health instruction*
- 52164.1 *Census-taking methods; determination of primary language; assessment of language skills*
- 52164.3 *Notice of reassessment of language skills*
- 52173 *Consultation with parents or guardians; notice to parents or guardians; withdrawal of pupil*
- 52244 *Advanced Placement Program*
- 54444.2 *Migrant education programs; parent involvement*
- 56301 *Child-find system; policies re: written notification rights*
- 56321 *Special education: proposed assessment plan*
- 56321.5-56321.6 *Notice of parent rights pertaining to special education*
- 56329 *Written notice of right to findings; independent assessment*
- 56341 *Individualized education program team*
- 56341.1 *Development of individualized education program; right to audio record meeting*
- 56341.5 *Individualized education program team meetings*

*Legal Reference continued: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference: (continued)*

EDUCATION CODE (continued)

56343.5 IEP meetings

56346 Parental notice and consent to special education program

58501 Alternative schools: notice required prior to establishment

60641 Standardized Testing and Reporting Program

60850 High School Exit Examination

66204 Certification of high school courses as meeting university admission criteria

HEALTH AND SAFETY CODE

1596.857 Right to enter child care facility

120365 Immunizations

120370 Immunizations

120375 Immunizations

120440 Sharing immunization information

124085 Certificate of receipt; health screening and evaluation services; waiver by parent/guardian

124100 School districts and private schools; information to parents

PENAL CODE

627.5 Hearing request following denial or revocation of registration

WELFARE AND INSTITUTIONS CODE

18976.5 Parental notice; right of refusal to participate

CODE OF REGULATIONS, TITLE 5

863 Standardized Testing and Reporting Program

3052 Behavioral intervention

3831 General standards (Gifted and Talented Program)

4622 Notice requirements and recipients

4631 Responsibilities of the local agency

11303 Reclassification of English language learners

11309 Parental exception waivers

11523 Notice of proficiency examinations

18066 Policies and procedures absences for child care

UNITED STATES CODE, TITLE 20

1232g Family Educational and Privacy Rights Act

1415 Procedural safeguards

1681-1688 Title IX, discrimination based on sex or blindness

6311 State plans

6312 Local education agency plans

6316 Academic assessment and local education agency school improvement

6318 Parental involvement

7908 Armed forces recruiter access to students

UNITED STATES CODE, TITLE 42

2000d -2000d-7, Title VI, Civil Rights Act of 1964

*Legal Reference continued: (see next page)*

**PARENTAL NOTIFICATIONS (continued)**

*Legal Reference: (continued)*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.7 *Student records, annual notification*

99.34 *Student records, disclosure to other educational agencies*

104.36 *Procedural safeguards*

106.9 *Dissemination of policy, nondiscrimination on basis of sex*

300.345 *Parent participation*

300.502 *Independent educational evaluation*

300.503 *Prior written notice*

300.505 *Parental consent*

300.507 *Parent notice due process hearing*

300.523 *Manifestation determination review*

CODE OF FEDERAL REGULATIONS, TITLE 40

763.84 *Asbestos inspections, response actions and post-response actions*

763.93 *Asbestos management plans*



**PARENTAL NOTIFICATIONS**

**Cautionary Notice 2013-14:** AB 110 (Ch. 20, Statutes of 2013) amended Government Code 17581.5 to relieve districts from the obligation, until July 1, 2014, to perform any activities that are deemed to be reimbursable state mandates under that section. As a result, certain provisions of the following Exhibit that reflect those requirements may be suspended.

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. Annually</b>			
Beginning of each school year	17612, 48980.3	AR 3514.2	Use of pesticide product, active ingredients, Internet address to access information
By February 1	35256	BP 0510	School Accountability Report Card provided
Beginning of each school year	35291, 48980	AR 5144 AR 5144.1	COE and site discipline rules
Beginning of each school year	46010.1	BP 5113	Absence for confidential medical services
Beginning of each school year	48980	BP 6111	Schedule of minimum days
Beginning of each school year	48980, 231.5; 5 CCR 4917	AR 5145.7	Sexual harassment policy as related to students
Beginning of each school year	48980, 32255- 32255.6	AR 5145.8	Right to refrain from harmful or destructive use of animals
Beginning of each school year	48980, 35160.5, 46600-46611, 48204	AR 5111.1 AR 5116.1 AR 5117	All statutory attendance options, available local attendance options, options for meeting residency
Beginning of each school year, if Board allows such absence	48980, 46014	BP 5113 AR 5113	Absence for religious exercises or purposes
Beginning of each school year	48980, 48205	BP 5113 AR 5113 AR 6154	Excused absences; grade/credit cannot be reduced due to excused absence if work or test has been completed

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. Annually</b> (continued)			
Beginning of each school year	48980, 48206.3, 48207, 48208	AR 6183	Availability of home/hospital instruction for students with temporary disabilities
Beginning of each school year	48980, 49403	BP 5141.31	Consent to school immunization program
Beginning of each school year	48980, 49423, 49480	AR 5141.21	Administration of prescribed medication
Beginning of each school year	48980, 49451; 20 USC 1232h	AR 5141.3	Right to refuse consent to physical examination
Beginning of each school year	48980, 49472	BP 5143	Availability of insurance
Beginning of each school year	49013; 5 CCR 4622	AR 1312.3	Uniform complaint procedures, available appeals, civil law remedies
Beginning of each school year	49063	AR 5125 AR 5125.3	Challenge, review, and expunging of records
Beginning of each school year	49063, 49069; 20 USC 1232g; 34 CFR 99.7	AR 5125	Student records: inspect and review, access, types, location, persons responsible, location of log, access criteria, cost of copies, amendment requests, criteria to determine legitimate educational interest, course prospectus availability
Beginning of each school year	49063, 49073; 20 USC 1232g; 34 CFR 99.37	AR 5125.1	Release of directory information
Beginning of each school year	49520, 48980; 42 USC 1758; 7 CFR 245.5	AR 3553	Free and reduced price meals

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. Annually</b> (continued)			
Beginning of each school year	56301	BP 6164.4	Parental rights re: special education identification, referral, assessment, instructional planning, implementation and review, and procedures for initiating a referral for assessment
Beginning of each school year	58501, 48980	AR 6181	Alternative schools
Beginning of each school year	Health and Safety Code 104855	AR 5141.6	Availability of dental fluoride treatment; opportunity to accept or deny treatment
Annually	5 CCR 852	AR 6162.51	Student's participation in state assessments; option to request exemption from testing
Beginning of each school year	20 USC 1232h	AR 5022 BP 6162.8	Notice of privacy policy and dates of activities re: survey, health examination, or collection of personal information for marketing; process to opt out of such activities
Beginning of each school year, if COE receives Title I funds	20 USC 6311; 34 CFR 200.61	AR 4112.24 AR 4222	Right to request information re: professional qualifications of child's teacher and paraprofessional
Beginning of each school year, if any COE school has been identified for program improvement or corrective action	20 USC 6316	AR 0520.2	Availability of supplemental educational services, identity of providers, description of services, qualifications, effectiveness of providers
Beginning of each school year	34 CFR 104.8, 106.9	BP 0410 BP 6178	Nondiscrimination

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>I. Annually</b> (continued)			
Beginning of each school year to parent, teacher, and employee organizations or, in their absence, individuals	40 CFR 763.84, 763.93	AR 3514	Availability of asbestos management plan; any inspections, response actions or post-response actions planned or in progress
<b>II. At Specific Times During the Student's Academic Career</b>			
Beginning in grade 7, at least once prior to course selection and career counseling	221.5, 48980	BP 6164.2	Course selection and career counseling
When child first enrolls in a public school, if the school offers a fingerprinting program	32390, 48980	AR 5142.1	Fingerprinting program
Upon registration in K-6, if students have not previously been transported	39831.5	AR 3543	School bus safety rules and information, list of stops, rules of conduct, red light crossing instructions, bus danger zones, walking to and from stops
Beginning of each school year for high school students, if high school is open campus	44808.5, 48980	AR 5112.5	Open campus
Beginning of each school year in grades 9-12, if COE allows career technical education (CTE) course to satisfy graduation requirement	48980, 51225.3	AR 6146.1	How each high school graduation requirement does or does not satisfy college entrance a-g course criteria; list of COE CTE courses that satisfy a-g course criteria
Beginning of each school year in grades 9-12 and when high school student transfers into the COE	48980, 60850	AR 6162.52	Requirement to pass the high school exit exam including: date of exam, requirements for passing, consequences of not passing, and that passing is a condition of graduation
When students entering grade 7	49452.7	AR 5141.3	Specified information on type 2 diabetes

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>II. At Specific Times During the Student's Academic Career</b> (continued)			
When in kindergarten, or first grade if not previously enrolled in public school	49452.8	AR 5141.32	Requirement for oral health assessment, explanation of law, importance of oral health, agency contact, privacy rights
Beginning of each school year for students in grades 9-12	51229, 48980	AR 6143	College admission requirements, UC and CSU web sites that list certified courses, description of CTE, CDE Internet address, how students may meet with counselors
Beginning of each school year for students in grades 7-12	51938, 48980	AR 6142.1	Explanation of sex and HIV/AIDS instruction; right to view A/V materials, who's teaching, request specific Education Code sections, right to excuse
Within 20 working days of receiving results of standardized achievement tests or, if results not available in school year, 20 days of start of next school year	60641; 5 CCR 863	AR 6162.51	Results of tests; test purpose, individual score and intended use
When child is enrolled in kindergarten	Health and Safety Code 124100	AR 5141.32	Health screening examination
To students in grades 11-12, early enough to enable registration for fall test	5 CCR 11523	AR 6146.2	Notice of proficiency examination provided under Education Code 48412
To secondary students, if COE receives Title I funds	20 USC 7908	AR 5125.1	Notice that parents may request COE to not release name, address, phone number of child to military recruiters without prior written consent
<b>III. When Special Circumstances Occur</b>			
Upon receipt of a complaint alleging discrimination	262.3	AR 1312.3	Civil law remedies available to complainants

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
When student has been placed in structured English immersion program	310-311; 5 CCR 11309	AR 6174	Student's placement in program, opportunity to apply for parental exception waiver, other rights of student relative to such placements
When determining whether an English learner should be reclassified as fluent English proficient	313; 5 CCR 11303	AR 6174	Description of reclassification process, opportunity for parent/guardian to participate
When student is identified as English learner and COE receives Title III funds, not later than 30 days after beginning of school year or within two weeks of placement if identified during school year	440; 20 USC 7012	AR 6174	Reason for classification, level of English proficiency, description of program(s), option to decline program or choose alternate, exit requirements of program
Before high school student attends specialized secondary program on a university campus	17288	None	University campus buildings may not meet Education Code requirements for structural safety
At least 72 hours before use of pesticide product not included in annual list	17612	AR 3514.2	Intended use of pesticide product
To members of athletic teams	32221.5	AR 5143	Offer of insurance; no-cost and low-cost program options
If school has lost its WASC accreditation status	35178.4	BP 6190	Loss of status, potential consequences
At least six months before implementing uniform policy	35183	AR 5132	Dress code policy requiring schoolwide uniform
Before implementing a year-round schedule	37616	BP 6117	Year-round schedule
When interdistrict transfer is requested and not approved or denied within 30 days	46601	AR 5117	Appeal process
Before early entry to kindergarten, if offered	48000	AR 5111	Effects, advantages and disadvantages of early entry

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
When student identified as being at risk of retention	48070.5	AR 5123	Student at risk of retention
When student excluded due to quarantine, contagious or infectious disease, danger to safety or health	48213	AR 5112.2 BP 5141.33	Student has been excluded from school
Before already admitted student is excluded for lack of immunization	48216; 17 CCR 6040	AR 5141.31	Need to submit evidence of immunization or exemption within 10 school days; referral to medical care
When a student is classified a truant	48260.5, 48262	AR 5113.1	Truancy, parental obligation, availability of alternative programs, student consequences, need for conference
When a truant is referred to a SARB or probation department	48263	AR 5113.1	Name and address of SARB or probation department and reason for referral
When a school is identified on the state's Open Enrollment List	48354; 5 CCR 4702	AR 5118	Student's option to transfer to another school
Within 60 days of receiving application for transfer out of open enrollment school	48357; 5 CCR 4702	AR 5118	Whether student's transfer application is accepted or rejected; reasons for rejection
When student requests to voluntarily transfer to continuation school	48432.3	AR 6184	Copy of COE policy and regulation on continuation education
Prior to involuntary transfer to continuation school	48432.5	AR 6184	Right to request meeting prior to involuntary transfer to continuation school
When student is removed from class and teacher requires parental attendance at school	48900.1	BP 5144.1 AR 5144.1	Parental attendance required; timeline for attendance
Prior to withholding grades, diplomas, or transcripts	48904	AR 5125.2	Damaged school property

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
When withholding grades, diplomas or transcripts from transferring student	48904.3	AR 5125.2	Next school will continue withholding grades, diplomas, or transcripts
When student is released to peace officer	48906	BP 5145.11	Release of student to peace officer
At time of suspension	48911	BP 5144.1 AR 5144.1	Notice of suspension
When original period of suspension is extended	48911	AR 5144.1	Extension of suspension
At the time a student is assigned to a supervised suspension classroom	48911.1	AR 5144.1	The student's assignment to a supervised suspension classroom
Before holding a closed session re: suspension	48912	AR 5144.1	Intent to hold a closed session re: suspension
When student expelled from another district for certain acts seeks admission	48915.1, 48918	BP 5119	Hearing re: possible danger presented by expelled student
When readmission is denied	48916	AR 5144.1	Reasons for denial; determination of assigned program
When expulsion occurs	48916	AR 5144.1	Readmission procedures
10 calendar days before expulsion hearing	48918	AR 5144.1	Notice of expulsion hearing
When expulsion or suspension of expulsion occurs	48918	AR 5144.1	Decision to expel; right to appeal to county board; obligation to inform new district of status
One month before the scheduled minimum day	48980	BP 6111	When minimum days are scheduled after beginning of the school year
When parents request guidelines for filing complaint of child abuse at a school site	48987	AR 5141.4	Guidelines for filing complaint of child abuse at a school site with local child protective agencies



**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
When student in danger of failing a course	49067	AR 5121	Student in danger of failing a course
When student transfers from another district or private school	49068	AR 5125	Right to receive copy of student's record and to challenge its content
Within 24 hours of release of information to a judge or probation officer	49076	AR 5125	Release of student record to a judge or probation officer for conducting truancy mediation program or for presenting evidence at a truancy petition
Before release of information pursuant to court order or subpoena	49077	AR 5125	Release of information pursuant to court order or subpoena
When screening results in suspicion that student has scoliosis	49452.5	AR 5141.3	Scoliosis screening
When test results in discovery of visual or hearing defects	49456	AR 5141.3	Vision or hearing test
Annually to parents/guardians of student athletes before their first practice or competition	49475	AR 6145.2	Information on concussions and head injuries
Before any test questioning personal beliefs	51513	AR 5022	Permission for test, survey questioning personal beliefs
Within 14 days of instruction if arrangement made for guest speaker after beginning of school year	51938	AR 6142.1	Instruction in HIV/AIDS or sexual health education by guest speaker or outside consultant
Prior to administering survey regarding health risks and behaviors to students in 7-12	51938	AR 5022	Notice that the survey will be administered
Within 30 calendar days of receipt of results of assessment or reassessment of English proficiency	52164.1, 52164.3; 5 CCR 11511.5	AR 6174	Results of state test of English proficiency

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
When migrant education program is established	54444.2	BP 6175 AR 6175	Parent advisory council membership composition
When child participates in licensed child care and development program	Health and Safety Code 1596.857	AR 5148	Parent right to enter facility
When COE receives Tobacco-Use Prevention Education Funds	Health and Safety 104420	AR 3513.3	The COE's tobacco-free schools policy and enforcement procedures
When sharing student immunization information with an immunization system	Health and Safety Code 120440	AR 5125	Types of information to be shared, name and address of agency, acceptable use of the information, right to examine, right to refuse to share
When hearing is requested by person asked to leave school premises	Penal Code 627.5	AR 3515.2	Notice of hearing
When responding to complaint re: discrimination, special education, or noncompliance with law	5 CCR 4631	AR 1312.3	Appeal rights and procedures
When child participates in licensed child care and development program	5 CCR 18066	AR 5148	Policies re: unexcused absences
When COE substantively changes policy on student privacy rights	20 USC 1232h	AR 5022	Notice of any substantive change in policy or regulation
For COEs receiving Title I funds, when child has been taught for four or more consecutive weeks by a teacher who is not "highly qualified"	20 USC 6311	AR 4112.24	Timely notice to parent of child's assignment
When school identified for program improvement or corrective action, within 30 days of failure to make annual yearly progress, to parents of English learners	20 USC 6312	AR 0520.2	Notice of failure to make adequate yearly progress

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>III. When Special Circumstances Occur</b> (continued)			
For COEs receiving Title I funds, not later than 30 days after beginning of school year, to parents of English learners	20 USC 6312	AR 6174	Reasons for placement, level of proficiency, instructional methods, how program meets child's strengths and teaches English, exit requirements, right to choose other program
When school identified for program improvement or corrective action	20 USC 6316	AR 0520.2 AR 5116.1	Explanation of identification, reasons, how problem will be addressed, how parents can become involved, transfer option, availability of supplemental services
When COE identified for program improvement	20 USC 6316	AR 0520.3	Explanation of status, reasons for identification, how parents can participate in upgrading COE
For schools receiving Title I funds, upon development of parent involvement policy	20 USC 6318	AR 6020	Notice of policy
For COEs receiving Title III funds, within 30 days of the release of state Title III accountability report	20 USC 7012	AR 6174	Notification of any failure to make progress on state's annual measurable achievement objectives for English learners
When household is selected for verification of eligibility for free or reduced-price meals	42 USC 1758; 7 CFR 245.6a	AR 3553	Notice of need to submit verification information; any subsequent change in benefits; right to appeal
When student transfers out of state and records are disclosed without consent pursuant to 34 CFR 99.30	34 CFR 99.34	AR 5125	Right to review records
<b>IV. Special Education Notices</b>			
Before functional behavioral assessment begins	56321	AR 6159.4	Notification and consent

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. Special Education Notices</b> (continued)			
Prior to conducting initial evaluation	56301, 56321, 56321.5, 56321.6, 56329; 34 CFR 300.502	AR 6164.4	Proposed evaluation plan, related parental rights, prior written notice
24 hours before IEP when COE intending to record	56341.1	AR 6159	Intention to audio-record IEP meeting
Early enough to ensure opportunity for parent to attend IEP meeting	56341.5; 34 CFR 300.322	AR 6159	Time, purpose, location, who in attendance, participation of others with special knowledge, transition statements if appropriate
When parent orally requests review of IEP	56343.5	AR 6159	Need for written request
Within one school day of emergency intervention or serious property damage	56521.1	AR 6159.4	Emergency intervention
Whenever there is a proposal or refusal to initiate or change the identification, evaluation, placement, or FAPE, including when parent/guardian revokes consent for services	20 USC 1415(c); 34 CFR 300.300, 300.503	AR 6159 AR 6159.1	Prior written notice
Initial referral for evaluation	20 USC 1415(d); 34 CFR 300.503	AR 6159.1	Prior written notice and procedural safeguards notice
Registration of complaint	20 USC 1415(d); 34 CFR 300.504	AR 6159.1	Procedural safeguards notice
Disciplinary action taken for dangerous behavior	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Suspension or change of placement for more than 10 days	20 USC 1415(k); 34 CFR 300.530	AR 5144.2	Decision and procedural safeguards notice
Upon requesting a due process hearing	20 USC 1415(k); 34 CFR 300.508	AR 6159.1	Student's name, address, school, description of problem, proposed resolution

**PARENTAL NOTIFICATIONS** (continued)

<b>When to Notify</b>	<b>Education or Other Legal Code</b>	<b>Board Policy/ Administrative Regulation #</b>	<b>Subject</b>
<b>IV. Special Education Notices</b> (continued)			
Eligibility for services under Section 504	34 CFR 104.32, 104.36	AR 6164.6	COE responsibilities, COE actions, procedural safeguards
<b>V. Classroom Notices</b>			
In each classroom in each school	35186	AR 1312.4 E 1312.4	Complaints re: sufficiency of instructional materials, teacher vacancy or misassignment, maintenance of facilities

**SEXUAL HARASSMENT**

The Lake County Board of Education and the Lake County Superintendent of Schools are committed to maintaining a safe school environment that is free from harassment and discrimination. The County Board and County Superintendent prohibit sexual harassment of students at school or at school-sponsored or school-related activities. They also prohibit retaliatory behavior or action against any person who files a complaint, testifies, or otherwise participates in Lake County Office of Education complaint processes.

*(cf. 0410 - Nondiscrimination in County Office Programs and Activities)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 4119.11/4219.11/4319.11 - Sexual Harassment)*

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

**Instruction/Information**

The County Superintendent shall ensure that all LCOE students receive age-appropriate instruction and information on sexual harassment. Such instruction and information shall include:

1. What acts and behavior constitute sexual harassment, including the fact that sexual harassment could occur between people of the same sex and could involve sexual violence
2. A clear message that students do not have to endure sexual harassment
3. Encouragement to report observed instances of sexual harassment, even where the victim of the harassment has not complained
4. Information about LCOE's procedure for investigating complaints and the person(s) to whom a report of sexual harassment should be made
5. Information about the rights of students and parents/guardians to file a criminal complaint, as applicable

**Complaint Process**

Any student who feels that he/she is being or has been sexually harassed on school grounds or at a school-sponsored or school-related activity (e.g., by a visiting athlete or coach) shall immediately contact his/her teacher or any other employee. An employee who receives such a complaint shall report it in accordance with administrative regulation.

*(cf. 1312.1 - Complaints Concerning County Office Employees)*

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

**SEXUAL HARASSMENT** (continued)

The County Superintendent or designee shall ensure that any complaints regarding sexual harassment are immediately investigated in accordance with administrative regulation. When the County Superintendent or designee has determined that harassment has occurred, he/she shall take prompt, appropriate action to end the harassment and to address its effects on the victim.

**Disciplinary Actions**

Any student who engages in sexual harassment or sexual violence at school or at a school-sponsored or school-related activity is in violation of this policy and shall be subject to disciplinary action. For students in grades 4-12, disciplinary action may include suspension and/or expulsion, provided that, in imposing such discipline, the entire circumstances of the incident(s) shall be taken into account.

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

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

**Confidentiality and Record-Keeping**

All complaints and allegations of sexual harassment shall be kept confidential except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*(cf. 5125 - Student Records)*

The County Superintendent or designee shall maintain a record of all reported cases of sexual harassment to enable LCOE to monitor, address, and prevent repetitive harassing behavior in the schools.

*Legal Reference: (see next page)*

**SEXUAL HARASSMENT (continued)**

*Legal Reference:*

EDUCATION CODE

200-262.4 *Prohibition of discrimination on the basis of sex*

48900 *Grounds for suspension or expulsion*

48900.2 *Additional grounds for suspension or expulsion; sexual harassment*

48904 *Liability of parent/guardian for willful student misconduct*

48980 *Notice at beginning of term*

CIVIL CODE

51.9 *Liability for sexual harassment; business, service and professional relationships*

1714.1 *Liability of parents/guardians for willful misconduct of minor*

GOVERNMENT CODE

12950.1 *Sexual harassment training*

CODE OF REGULATIONS, TITLE 5

4600-4687 *Uniform complaint procedures*

4900-4965 *Nondiscrimination in elementary and secondary education programs*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, discrimination*

UNITED STATES CODE, TITLE 42

1983 *Civil action for deprivation of rights*

2000d-2000d-7 *Title VI, Civil Rights Act of 1964*

2000e-2000e-17 *Title VII, Civil Rights Act of 1964 as amended*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.1-106.71 *Nondiscrimination on the basis of sex in education programs*

COURT DECISIONS

*Donovan v. Poway Unified School District*, (2008) 167 Cal.App.4th 567

*Flores v. Morgan Hill Unified School District*, (2003, 9th Cir.) 324 F.3d 1130

*Reese v. Jefferson School District*, (2001, 9th Cir.) 208 F.3d 736

*Davis v. Monroe County Board of Education*, (1999) 526 U.S. 629

*Gebser v. Lago Vista Independent School District*, (1998) 524 U.S. 274

*Oona by Kate S. v. McCaffrey*, (1998, 9th Cir.) 143 F.3d 473

*Doe v. Petaluma City School District*, (1995, 9th Cir.) 54 F.3d 1447

*Management Resources:*

CSBA PUBLICATIONS

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

*Providing a Safe, Nondiscriminatory School Environment for All Students*, Policy Brief, April 2010

OFFICE FOR CIVIL RIGHTS PUBLICATIONS

*Dear Colleague Letter: Sexual Violence*, April 4, 2011

*Sexual Harassment: It's Not Academic*, September 2008

*Revised Sexual Harassment Guidance*, January 2001

WEB SITES

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

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

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>



**SEXUAL HARASSMENT**

Prohibited sexual harassment includes, but is not limited to, unwelcome sexual advances, unwanted requests for sexual favors, or other unwanted verbal, visual, or physical conduct of a sexual nature made against another person of the same or opposite sex in the educational setting, when made on the basis of sex and under any of the following conditions: (Education Code 212.5; 5 CCR 4916)

1. Submission to the conduct is explicitly or implicitly made a term or condition of a student's academic status or progress.
2. Submission to or rejection of the conduct by a student is used as the basis for academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact on the student's academic performance or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to or rejection of the conduct by the student is used as the basis for any decision affecting the student regarding benefits and services, honors, programs, or activities available at or through any Lake County Office of Education program or activity.

*(cf. 5131 - Conduct)*

*(cf. 5131.2 - Bullying)*

*(cf. 5137 - Positive School Climate)*

*(cf. 5145.3 - Nondiscrimination/Harassment)*

*(cf. 6142.1 - Sexual Health and HIV/AIDS Prevention Instruction)*

Examples of types of conduct which are prohibited in LCOE and which may constitute sexual harassment include, but are not limited to:

1. Unwelcome leering, sexual flirtations, or propositions
2. Unwelcome sexual slurs, epithets, threats, verbal abuse, derogatory comments, or sexually degrading descriptions
3. Graphic verbal comments about an individual's body or overly personal conversation
4. Sexual jokes, derogatory posters, notes, stories, cartoons, drawings, pictures, obscene gestures, or computer-generated images of a sexual nature
5. Spreading sexual rumors
6. Teasing or sexual remarks about students enrolled in a predominantly single-sex class
7. Massaging, grabbing, fondling, stroking, or brushing the body

**SEXUAL HARASSMENT** (continued)

8. Touching an individual's body or clothes in a sexual way
9. Impeding or blocking movements or any physical interference with school activities when directed at an individual on the basis of sex
10. Displaying sexually suggestive objects
11. Sexual assault, sexual battery, or sexual coercion

**School-Level Complaint Process/Grievance Procedure**

Complaints of sexual harassment, or any behavior prohibited by LCOE's Nondiscrimination/Harassment policy - BP 5145.3, shall be handled in accordance with the following procedure:

1. **Notice and Receipt of Complaint:** Any student who believes he/she has been subjected to sexual harassment or who has witnessed sexual harassment may file a complaint with any school employee. Within 24 hours of receiving a complaint, the school employee shall report it to LCOE Coordinator for Nondiscrimination/program manager/administrator. In addition, any school employee who observes any incident of sexual harassment involving a student shall, within 24 hours, report this observation to the Coordinator/program manager/administrator, whether or not the victim files a complaint.

In any case of sexual harassment involving the Coordinator/program manager/administrator to whom the complaint would ordinarily be made, the employee who receives the student's report or who observes the incident shall instead report to the Lake County Superintendent of Schools.

2. **Initiation of Investigation:** The Coordinator/program manager/administrator shall initiate an impartial investigation of an allegation of sexual harassment within five school days of receiving notice of the harassing behavior, regardless of whether a formal complaint has been filed. LCOE shall be considered to have "notice" of the need for an investigation upon receipt of information from a student who believes he/she has been subjected to harassment, the student's parent/guardian, an employee who received a complaint from a student, or any employee or student who witnessed the behavior.

If the Coordinator/program manager/administrator receives an anonymous complaint or media report about alleged sexual harassment, he/she shall determine whether it is reasonable to pursue an investigation considering the specificity and reliability of the information, the seriousness of the alleged incident, and whether any individuals can be identified who were subjected to the alleged harassment.

**SEXUAL HARASSMENT** (continued)

3. **Initial Interview with Student:** When a student or parent/guardian has complained or provided information about sexual harassment, the Coordinator/program manager/administrator shall describe LCOE's grievance procedure and discuss what actions are being sought by the student in response to the complaint. The student who is complaining shall have an opportunity to describe the incident, identify witnesses who may have relevant information, provide other evidence of the harassment, and put his/her complaint in writing. If the student requests confidentiality, he/she shall be informed that such a request may limit LCOE's ability to investigate.
4. **Investigation Process:** The Coordinator/program manager/administrator shall keep the complaint and allegation confidential, except as necessary to carry out the investigation or take other subsequent necessary action. (5 CCR 4964)

The Coordinator/program manager/administrator shall interview individuals who are relevant to the investigation, including, but not limited to, the student who is complaining, the person accused of harassment, anyone who witnessed the reported harassment, and anyone mentioned as having relevant information. The Coordinator/program manager/administrator may take other steps such as reviewing any records, notes, or statements related to the harassment or visiting the location where the harassment is alleged to have taken place.

When necessary to carry out his/her investigation or to protect student safety, the Coordinator/program manager/administrator also may discuss the complaint with the County Superintendent or designee, the parent/guardian of the student who complained, the parent/guardian of the alleged harasser if the alleged harasser is a student, a teacher or staff member whose knowledge of the students involved may help in determining who is telling the truth, law enforcement and/or child protective services, and LCOE legal counsel, or risk manager.

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

5. **Interim Measures:** The Coordinator/program manager/administrator shall determine whether interim measures are necessary during and pending the results of the investigation, such as placing students in separate classes or transferring a student to a class taught by a different teacher.
6. **Optional Mediation:** In cases of student-on-student harassment, when the student who complained and the alleged harasser so agree, the Coordinator/program manager/administrator may arrange for them to resolve the complaint informally with the help of a counselor, teacher, administrator, or trained mediator. The student who

**SEXUAL HARASSMENT** (continued)

complained shall never be asked to work out the problem directly with the accused person unless such help is provided and both parties agree, and he/she shall be advised of the right to end the informal process at any time.

*(cf. 5138 - Conflict Resolution)*

7. **Factors in Reaching a Determination:** In reaching a decision about the complaint, the Coordinator/program manager/administrator may take into account:

- a. Statements made by the persons identified above
- b. The details and consistency of each person's account
- c. Evidence of how the complaining student reacted to the incident
- d. Evidence of any past instances of harassment by the alleged harasser
- e. Evidence of any past harassment complaints that were found to be untrue

To judge the severity of the harassment, the Coordinator/program manager/administrator may take into consideration:

- a. How the misconduct affected one or more students' education
- b. The type, frequency, and duration of the misconduct
- c. The identity, age, and sex of the harasser and the student who complained, and the relationship between them
- d. The number of persons engaged in the harassing conduct and at whom the harassment was directed
- e. The size of the school, location of the incidents, and context in which they occurred
- f. Other incidents at the school involving different students

8. **Written Report on Findings and Follow-Up:** No more than 30 days after receiving the complaint, the Coordinator/program manager/administrator shall conclude the investigation and prepare a written report of his/her findings. This timeline may be extended for good cause. If an extension is needed, the Coordinator/program manager/administrator shall notify the student who complained and explain the reasons for the extension.

**SEXUAL HARASSMENT** (continued)

The report shall include the decision and the reasons for the decision and shall summarize the steps taken during the investigation. If it is determined that harassment occurred, the report shall also include any corrective actions that have or will be taken to address the harassment and prevent any retaliation or further harassment. This report shall be presented to the student who complained, the person accused, the parents/guardians of the student who complained and the student who was accused, and the County Superintendent or designee.

In addition, the Coordinator/program manager/administrator shall ensure that the harassed student and his/her parent/guardian are informed of the procedures for reporting any subsequent problems. The Coordinator/program manager/administrator shall make follow-up inquiries to see if there have been any new incidents or retaliation and shall keep a record of this information.

**Enforcement of County Office Policy**

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

1. Removing vulgar or offending graffiti

*(cf. 5131.5 - Vandalism and Graffiti)*

2. Providing training to students, staff, and parents/guardians about how to recognize harassment and how to respond

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

3. Disseminating and/or summarizing LCOE's policy and regulation regarding sexual harassment

4. Consistent with the laws regarding the confidentiality of student and personnel records, communicating the school's response to parents/guardians and the community

*(cf. 4119.23/4219.23/4319.23 - Unauthorized Release of Confidential/Privileged Information)*

*(cf. 5125 - Student Records)*

5. Taking appropriate disciplinary action

**SEXUAL HARASSMENT** (continued)

In addition, disciplinary measures may be taken against any person who is found to have made a complaint of sexual harassment which he/she knew was not true.

*(cf. 4118 - Suspension/Disciplinary Action)*

*(cf. 4218 - Dismissal/Suspension/Disciplinary Action)*

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

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

**Notifications**

A copy of LCOE's sexual harassment policy and regulation shall:

1. Be included in the notifications that are sent to parents/guardians at the beginning of each school year (Education Code 48980; 5 CCR 4917)

*(cf. 5145.6 - Parental Notifications)*

2. Be displayed in a prominent location in the main administrative building or other area where notices of LCOE rules, regulations, procedures, and standards of conduct are posted, including school web sites (Education Code 231.5)
3. Be provided as part of any orientation program conducted for new students at the beginning of each quarter, semester, or summer session (Education Code 231.5)
4. Appear in any school or LCOE publication that sets forth the school's or LCOE's comprehensive rules, regulations, procedures, and standards of conduct (Education Code 231.5)
5. Be included in the student handbook
6. Be provided to employees and employee organizations

**REFUSAL TO HARM OR DESTROY ANIMALS**

Any student who has a moral objection to dissecting or otherwise harming or destroying animals shall have the right to refrain from participating in instruction which involves such activities and shall not be discriminated against because of a decision to exercise this right. (Education Code 32255.1)

*(cf. 5145.2 - Freedom of Speech/Expression)*  
*(cf. 6142.93 - Science Instruction)*

The right to refrain from instruction involving harmful or destructive use of animals shall apply to all grades 7-12 courses, except classes and activities conducted as part of agricultural education that provide instruction on the care, management, and evaluation of domestic animals. (Education Code 32255.5, 32255.6)

At the beginning of each academic year, the Lake County Superintendent of Schools shall notify parents/guardians, in writing, of students' right to refrain from instruction involving the harmful or destructive use of animals. (Education Code 48980)

*(cf. 5145.6 - Parental Notifications)*

In addition, each teacher of a course that uses live or dead animals or animal parts shall inform students of their right to refrain from the harmful or destructive use of animals. (Education Code 32255.4)

A student who wishes to refrain from such instruction shall notify the teacher and shall provide a note from his/her parent/guardian substantiating the objection. (Education Code 32255.1)

If the teacher believes an adequate alternative project is possible, he/she may work with the student to develop and agree upon an alternative project which would provide the knowledge, information, or experience required by the course of study. Alternative projects include, but are not limited to, the use of video recordings, models, films, books, and computers. The alternative project shall involve time and effort by the student comparable to that required by the original project. (Education Code 32255, 32255.1)

A teacher's determination of whether the student may pursue an alternative project or be excused from the project shall not be arbitrary or capricious. (Education Code 32255.3)

In order to receive course credit, students who participate in an alternative project shall pass all course examinations. Students may request an alternative test, however, if a regular examination requires the harmful or destructive use of animals. (Education Code 32255.1)

**REFUSAL TO HARM OR DESTROY ANIMALS** (continued)

*Legal Reference:*

EDUCATION CODE

32255-32255.6 *Student's right to refrain from harmful or destructive use of animals*

48980-48985 *Notification of parents/guardians, especially:*

48980 *Parental notification at beginning of term*

51540 *Humane treatment of animals*

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*Science Framework for California Public Schools: Kindergarten Through Grade 12, 2004*

*Science Content Standards for California Public Schools: Kindergarten Through Grade 12, 1998*

WEB SITES

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



**HATE-MOTIVATED BEHAVIOR**

In order to create a safe learning environment for all students, the Lake County Board of Education and the Lake County Superintendent of Schools desire to protect the right of every student to be free from hate-motivated behavior and will promote harmonious relationships among students so as to enable them to gain a true understanding of the civil rights and social responsibilities of people in society. The Lake County Office of Education prohibits discriminatory behavior or statements that degrade an individual on the basis of his/her actual or perceived race, ethnicity, culture, heritage, gender, sex, sexual orientation, physical/mental attributes, or religious beliefs or practices.

- (cf. 0410 - Nondiscrimination in County Office Programs and Activities)*
- (cf. 0450 - Comprehensive Safety Plan)*
- (cf. 3515.4 - Recovery for Property Loss or Damage)*
- (cf. 5131.5 - Vandalism and Graffiti)*
- (cf. 5136 - Gangs)*
- (cf. 5137 - Positive School Climate)*
- (cf. 5141.52 - Suicide Prevention)*
- (cf. 5145.3 - Nondiscrimination/Harassment)*
- (cf. 5147 - Dropout Prevention)*
- (cf. 5149 - At-Risk Students)*

The County Superintendent or designee shall collaborate with regional programs and community organizations to promote safe environments for youth. These efforts shall be focused on providing an efficient use of LCOE and community resources.

- (cf. 1020 - Youth Services)*
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*
- (cf. 1700 - Relations Between Private Industry and the Schools)*
- (cf. 5148.2 - Before/After School Programs)*
- (cf. 5148.3 - Preschool/Early Childhood Education)*
- (cf. 6020 - Parent Involvement)*

LCOE shall provide age-appropriate instruction to help promote an understanding of and respect for human rights, diversity, and tolerance in a multicultural society and to provide strategies to manage conflicts constructively.

- (cf. 5138 - Conflict Resolution/Peer Mediation)*
- (cf. 6142.3 - Civic Education)*
- (cf. 6142.4 - Service Learning/Community Service Classes)*
- (cf. 6141.94 - History-Social Science Instruction)*

The County Superintendent or designee shall ensure that staff receive training on recognizing hate-motivated behavior and on strategies to help respond appropriately to such behavior.

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

## **HATE-MOTIVATED BEHAVIOR** (continued)

### **Grievance Procedures**

Any student who believes he/she is a victim of hate-motivated behavior shall immediately contact the Coordinator for Nondiscrimination/program manager/administrator. Upon receiving such a complaint, the Coordinator/program manager/administrator shall immediately investigate the complaint in accordance with school-level complaint process/grievance procedures as described in AR 5145.7 - Sexual Harassment. A student who has been found to have demonstrated hate-motivated behavior shall be subject to discipline in accordance with law, Board policy, and administrative regulation.

*(cf. 1312.1 - Complaints Concerning County Office Employees)*

*(cf. 1312.3 - Uniform Complaint Procedures)*

*(cf. 5131- Conduct)*

*(cf. 5144 - Discipline)*

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

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

*(cf. 5145.7 - Sexual Harassment)*

Staff who receive notice of hate-motivated behavior or personally observe such behavior shall notify the Coordinator/program manager/administrator, County Superintendent or designee, and/or law enforcement, as appropriate.

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

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

As necessary, LCOE shall provide counseling, guidance, and support to students who are victims of hate-motivated behavior and to students who exhibit such behavior.

*(cf. 6164.2 - Guidance/Counseling Services)*

*Legal Reference: (see next page)*

**HATE-MOTIVATED BEHAVIOR** (continued)

*Legal Reference:*

EDUCATION CODE

200-262.4 Prohibition of discrimination

32282 School safety plans

48900.3 Suspension for hate violence

48900.4 Suspension or expulsion for threats or harassment

PENAL CODE

422.55 Definition of hate crime

422.6 Crimes, harassment

CODE OF REGULATIONS, TITLE 5

4600-4687 Uniform Complaint Procedures

4900-4965 Nondiscrimination in elementary and secondary education programs

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION LEGAL ADVISORIES

*California Student Safety and Violence Prevention - Laws and Regulations, April 2004*

U.S. DEPARTMENT OF EDUCATION, OFFICE FOR CIVIL RIGHTS & NATIONAL ASSOCIATION OF ATTORNEYS GENERAL PUBLICATIONS

*Protecting Students from Harassment and Hate Crime: A Guide for Schools, 1999*

U.S. DEPARTMENT OF JUSTICE PUBLICATIONS

*Preventing Youth Hate Crimes: A Guide for Schools and Communities, 1997*

WEB SITES

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

California Association of Human Relations Organizations: <http://www.cahro.org>

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

National Youth Violence Prevention Resource Center: <http://www.safeyouth.org>

U.S. Department of Education, Office for Civil Rights: <http://www.ed.gov/about/offices/list/ocr>

U.S. Department of Justice, Community Relations Service: <http://www.usdoj.gov/crs>

**MARRIED/PREGNANT/PARENTING STUDENTS**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Lake County Office of Education has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Lake County Board of Education and the Lake County Superintendent of Schools recognize that early marriage, pregnancy or parenting may disrupt a student's education and increase the chance of a student dropping out of school. The County Board and County Superintendent therefore desire to provide instruction and services designed to assist in pregnancy prevention. They also desire to support male and female expectant and parenting students to attain strong academic and parenting skills and to promote the healthy development of their children.

*(cf. 5147 - Dropout Prevention)*

*(cf. 5149 - At-Risk Students)*

*(cf. 6011 - Academic Standards)*

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.11 - Alternative Credits Toward Graduation)*

*(cf. 6146.2 - Certificate of Proficiency/High School Equivalency)*

Married, expectant and parenting students shall have the same educational and extracurricular opportunities as all students. Participation in special programs or schools shall be voluntary.

*(cf. 0410 - Nondiscrimination in County Office Programs and Activities)*

*(cf. 5127 - Graduation Ceremonies and Activities)*

*(cf. 6145 - Extracurricular and Cocurricular Activities)*

For school-related purposes, married students under the age of 18 are emancipated minors and have all the rights and privileges of students who are 18, even if the marriage has been dissolved. (Family Code 7002)

**Expectant and Parenting Students**

The County Board and County Superintendent are committed to providing to expectant and parenting students and their children a comprehensive, continuous, community-linked program that reflects the cultural and linguistic diversity of the community.

The County Superintendent shall collaborate with other community agencies and organizations to ensure that appropriate educational and related support services are available to meet the needs of expectant and parenting students their children.

**MARRIED/PREGNANT/PARENTING STUDENTS** (continued)

*(cf. 1020 - Youth Services)*

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

Expectant and parenting students retain the right to participate in any comprehensive school or educational alternative programs. School placement and instructional strategies for participating students shall be based on the needs and learning styles of individual students. The classroom setting shall be the preferred instructional strategy unless an alternative is necessary to meet the needs of the individual student and/or child. (Education Code 54745)

*(cf. 6158 - Independent Study)*

*(cf. 6183 - Home and Hospital Instruction)*

*(cf. 6184 - Continuation Education)*

*(cf. 6200 - Adult Education)*

In addition to providing a quality education program for expectant and parenting students, the Lake County Office of Education's program shall provide parenting education and life skills instruction, special school nutrition supplements for pregnant and lactating students, and a child care and development program on or near the school site for the children of enrolled students. LCOE's program may provide other support services authorized by Education Code 54746 as necessary to meet the needs of students and their children. (Education Code 54745)

*(cf. 3550 - Food Service/Child Nutrition Program)*

*(cf. 5141.6 - School Health Services)*

*(cf. 5148 - Child Care and Development)*

*(cf. 5148.1 - Child Care Services for Parenting Students)*

*(cf. 6164.2 - Guidance/Counseling Services)*

*Legal Reference: (see next page)*

**MARRIED/PREGNANT/PARENTING STUDENTS (continued)**

*Legal Reference:*

EDUCATION CODE

2551.3 *Determination of state aid for pregnant minors program*  
17293 *School facilities for pregnant/parenting teen programs*  
48220 *Compulsory education requirement*  
48410 *Persons exempted from continuation classes*  
49553 *Nutrition supplements for pregnant/lactating students*  
49558 *Confidentiality of applications and records for free or reduced price meals*  
51220.5 *Parenting skills and education*  
51745 *Independent study*  
52610.5 *Enrollment of pregnant and parenting students in adult education*  
54740-54749.5 *California School Age Families Education Program (Cal-SAFE)*

FAMILY CODE

7002 *Description of emancipated minor*  
7050 *Purposes for which emancipated minor considered an adult*

HEALTH AND SAFETY CODE

124175-124200 *Adolescent and Family Life Act*

UNITED STATES CODE, TITLE 20

1681-1688 *Title IX, Education Act Amendments*

CODE OF FEDERAL REGULATIONS, TITLE 34

106.40 *Marital or parental status*

*Management Resources:*

CDE PUBLICATIONS

*Pregnant and Parenting Students: A Report to the Legislature, April 1996*

SBE POLICIES

*Policy statement on adolescent pregnancy and parenting, July 9, 1993*

WEB SITES

CDE: <http://www.cde.ca.gov>

California Department of Public Health: <http://www.cdph.ca.gov>

Department of Social Services: <http://www.dss.cahswnet.gov>

## MARRIED/PREGNANT/PARENTING STUDENTS

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Lake County Office of Education has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Lake County Superintendent of Schools may grant a student a leave of absence due to pregnancy, childbirth or abortion for as long as it is deemed medically necessary. At the conclusion of the leave, the student shall be reinstated to the status she held when the leave began. (34 CFR 106.40)

*(cf. 5112.3 - Student Leave of Absence)*

A pregnant or parenting student also may request exemption from attendance because of a physical or mental condition or because of personal services that must be rendered to a dependent. (Education Code 48410)

*(cf. 5112.1 - Exemptions from Attendance)*

### Cal-SAFE Program

A male or female student shall be eligible to enroll in the Lake County Office of Education's California School Age Families Education (Cal-SAFE) program if he/she: (Education Code 54747, 56026)

1. Is an expectant parent, custodial parent, or noncustodial parent taking an active role in the care and supervision of the child
2. Has not earned a high school diploma or its equivalent
3. Meets one of the following additional conditions:
  - a. Is age 18 years of age or younger.
  - b. Is age 19 and has been continuously enrolled in the program since before his/her 19th birthday. Such a student may be enrolled in the program for one additional semester.
  - c. The student is below age 22 and has an active individualized education plan.

*(cf. 6159 - Individualized Education Program)*

Students shall be enrolled in the program on an open-entry and open-exit basis. (Education Code 54745)

**MARRIED/PREGNANT/PARENTING STUDENTS** (continued)

A student shall not be denied initial or continuous enrollment because of having had multiple pregnancies, more than one child, or a change in eligibility status from expectant to parenting. (Education Code 54747)

No fees shall be charged to students or their families for services provided through LCOE's Cal-SAFE program. (Education Code 54745)

*(cf. 3260 - Fees and Charges)*

The County Superintendent or designee shall complete an intake procedure regarding each student upon entry into the program, and periodically thereafter as necessary, to determine appropriate levels and types of services to be provided. (Education Code 54746)

The County Superintendent or designee shall provide staff development and conduct community outreach in order to establish a positive learning environment and supportive school policies. (Education Code 54745)

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

The County Superintendent or designee shall participate in the development of the county service coordination plan for providing educational and related support services to expectant and parenting teens and their children. He/she also shall participate in data collection and evaluation of the program. (Education Code 54744, 54745)

*(cf. 5148.1 - Child Care Services for Parenting Students)*

*(cf. 6190 - Evaluation of the Instructional Program)*

*(cf. 9000 - Role of the Board)*



**DROPOUT PREVENTION**

**Cautionary Notice:** As added and amended by SBX3 4 (Ch. 12, Third Extraordinary Session, Statutes of 2009), ABX4 2 (Ch. 2, Fourth Extraordinary Session, Statutes of 2009), and SB 70 (Ch. 7, Statutes of 2011), Education Code 42605 grants districts flexibility in "Tier 3" categorical programs. The Lake County Office of Education has accepted this flexibility and thus is deemed in compliance with the statutory or regulatory program and funding requirements for these programs for the 2008-09 through 2014-15 fiscal years. As a result, the district may temporarily suspend certain provisions of the following policy or regulation that reflect these requirements. For further information, please contact the Superintendent or designee.

The Lake County Board of Education and the Lake County Superintendent of Schools recognize that regular school attendance is critical to student learning and achievement. The County Board and County Superintendent desire to provide a learning environment that engages students, helps them become self-motivated, encourages regular attendance, and enables them to meet Lake County Office of Education standards and to graduate.

*(cf. 5113 - Absences and Excuses)*

*(cf. 6011 - Academic Standards)*

*(cf. 6146.1 - High School Graduation Requirements)*

*(cf. 6146.5 - Elementary/Middle School Graduation Requirements)*

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

The County Superintendent shall develop strategies to identify and serve students at all grade levels who are at risk of dropping out of school. Students may be identified on the basis of indicators such as frequent absenteeism, truancy, or tardiness; below-grade-level achievement; or personal, social, health, or economic concerns that may make a student more likely to drop out of school.

*(cf. 5113.1 - Chronic Absence and Truancy)*

*(cf. 5123 - Promotion/Acceleration/Retention)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

*(cf. 5149 - At-Risk Students)*

*(cf. 6164.2 - Guidance/Counseling Services)*

*(cf. 6164.5 - Student Success Teams)*

*(cf. 6178 - Career Technical Education)*

*(cf. 6178.1 - Work Experience Education)*

*(cf. 6179 - Supplemental Instruction)*

*Legal Reference: (see next page)*

**DROPOUT PREVENTION (continued)**

*Legal Reference:*

EDUCATION CODE

35160 Authority of governing board  
41505-41508 Pupil Retention Block Grant  
48400-48403 Compulsory continuation education  
48430-48438 Continuation education  
48660-48667 Community day schools  
51745-51749.3 Independent study  
52300-52334 Regional Occupational Centers  
52890 Qualifications and duties of outreach consultants  
54690-54697 Partnership academies  
64000-64001 Single plan for student achievement

REPEALED EDUCATION CODE FOR CATEGORICAL PROGRAMS

52014 Inclusion of activities in plan  
52015 Components of plan  
52900-52904 Alternative education and work centers for school dropouts  
54660-54669 Elementary and Secondary School Dropout Prevention Act  
54720-54735 School-based pupil motivation and maintenance program  
58550-58562 Educational clinics

UNITED STATES CODE, TITLE 20

6301-6322 Title I programs

*Management Resources:*

WEB SITES

California Department of Education: <http://www.cde.ca.gov>  
California Dropout Prevention Network: <http://www.edualliance.org/cdpn>  
National Dropout Prevention Center: <http://www.dropoutprevention.org>

**CHILD CARE AND DEVELOPMENT**

The County Board of Education desires to provide child care and development services which meet the developmental needs of children and offer a convenient child care alternative for parents/guardians in the community.

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 5148.3 - Preschool/Early Childhood Education)*

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

*(cf. 6175 - Migrant Education Program)*

The Superintendent shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality and inform parents/guardians about child care options.

*(cf 1020 - Youth Services)*

*(cf 1400 - Relations Between Other Government Agencies and Schools)*

*(cf 1700 - Relations Between Private Industry and School)*

The Board shall enter into a contract with the California Department of Education (CDE) for the provision of child care and development services by the LCOE.

*(cf. 3312 - Contracts)*

The LCOE shall work cooperatively with the local child care and development planning council, public and private agencies, parents/guardians, and other community members to assess child care needs in the community, establish program priorities, obtain ongoing feedback on program quality, and supply information about child care options.

*(cf. 1020 - Youth Services)*

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

*(cf. 1700 - Relations Between Private Industry and the Schools)*

The Board shall approve for the LCOE's child care and development program a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5 CCR 18271)

*(cf. 0000 - Vision)*

*(cf. 0100 - Philosophy)*

*(cf. 0200 - Goals for the School District)*

**Eligibility and Enrollment**

Child care admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the child care center's program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and health examination requirements. (5 CCR 18105; 22 CCR 101218)

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

*(cf. 3540 - Transportation)*

*(cf. 3550 - Food Service/Child Nutrition Program)*

*(cf. 5141.22 - Infectious Diseases)*

*(cf. 5141.3 - Health Examinations)*

*(cf. 5141.31 - Immunizations)*

**CHILD CARE AND DEVELOPMENT** (continued)

The Superintendent or designee shall ensure that subsidized child care is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

To the extent that space is available after the enrollment of children who are eligible for subsidized services, priority for admissions shall be given to LCOE students, children of LCOE students, and children of LCOE employees.

*(cf. 5111.1 - District Residency)*

*(cf. 5146 - Married/Pregnant/Parenting Students)*

**Staffing**

The Superintendent or designee shall ensure that individuals working in child care and development programs have the necessary qualifications and have satisfied all legal requirements.

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4112.2 - Certification)*

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*

*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

**Facilities**

Upon recommendation of the Superintendent or designee, the Board may approve any of the following for the provision of child care and development services:

1. The use of existing LCOE facilities that have capacity
2. Renovation or improvement of LCOE facilities to make them suitable for such services
3. Purchase of relocatable child care facilities
4. Inclusion of child care facilities in any new construction
5. Agreement with a public agency or community organization for the use of community facilities

*(cf. 1330.1 - Joint Use Agreements)*

*(cf. 7110 - Facilities Master Plan)*

**CHILD CARE AND DEVELOPMENT** (continued)

The Superintendent or designee shall ensure that facilities used for child care services meet all applicable health and safety standards. (5 CCR 18020; 22 CCR 101238-101239.2)

**Complaints**

For a licensed child care center, any complaint alleging health and safety violations shall be referred to the California Department of Social Services. For a license-exempt facility, such complaints shall be referred to the appropriate Child Development regional administrator. Any other alleged violation of state or federal laws governing child care and development programs shall be investigated and resolved using the LCOE's procedures in BP/AR 1312.3 - Uniform Complaint Procedures.

*(cf. 1312.3 - Uniform Complaint Procedures)*

**Program Evaluation**

The Superintendent or designee shall annually conduct an evaluation of the LCOE's child care and development services in accordance with state requirements. The evaluation report shall be submitted to the Board and the CDE along with an action plan which establishes program goals and objectives for the coming year and addresses any areas identified as needing improvement. (5 CCR 18279-18281)

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

**CHILD CARE AND DEVELOPMENT** (continued)*Legal Reference:*EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, especially:*  
 8200-8209 *General provisions for child care and development services*  
 8210-8216 *Resource and referral program*  
 8220-8226 *Alternative payment program*  
 8230-8233 *Migrant child care and development program*  
 8235-8239 *California state preschool program*  
 8240-8244 *General child care programs*  
 8250-8252 *Programs for children with special needs*  
 8263 *Eligibility and priorities for subsidized child development services*  
 8263.3 *Disenrollment of families due to reduced funding levels*  
 8263.4 *Enrollment of students ages 11-12 years*  
 8273-8273.3 *Fees*  
 8278.3 *Child Care Facilities Revolving Fund*  
 8360-8370 *Personnel qualifications*  
 8400-8409 *Contracts*  
 8482-8484.65 *After-school education and safety program*  
 8484.7-8484.8 *21st Century community learning centers*  
 8493-8498 *Facilities*  
 8499-8499.7 *Local planning councils*  
 49540-49546 *Child care food program*  
 49570 *National School Lunch program*  
 56244 *Staff development funding*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*  
 1596.90-1597.21 *Day care centers*  
 120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

4610-4687 *Uniform complaint procedures*  
 18000-18434 *Child care and development programs, especially:*  
 18012-18122 *General requirements*  
 18180-18192 *Federal and state migrant programs*  
 18210-18213 *Severely handicapped program*  
 18220-18231 *Alternative payment program*  
 18240-18248 *Resource and referral program*  
 18270-18281 *Program quality, accountability*  
 18290-18292 *Staffing ratios*  
 18295 *Waiver of qualifications for site supervisor*  
 18300-18308 *Appeals and dispute resolution*  
 80105-80125 *Commission on Teacher Credentialing, child care and development permits*

CODE OF REGULATIONS, TITLE 22

101151-101239.2 *General requirements, licensed child care centers, especially:*  
 101151-101163 *Licensing and application procedures*  
 101212-101231 *Continuing requirements*  
 101237-101239.2 *Facilities and equipment*

UNITED STATES CODE, TITLE 42

1751-1769 *School lunch programs*

9831-9852 *Head Start programs*  
9858-9858q *Child care and development block grant*  
CODE OF FEDERAL REGULATIONS, TITLE 7  
210.1-210.31 *National School Lunch program*  
CODE OF FEDERAL REGULATIONS, TITLE 45  
98.2-98.93 *Child care and development fund*  
COURT DECISIONS  
CBS Inc. v. The Superior Court of Los Angeles County, State Department of Social Services,  
(2001) 91 Cal.App.4th 892

*Management Resources:*

CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS  
14-03a *Revised Child Care and Development Fee Schedule, Management Bulletin,*  
*September 2014*  
Uniform Complaint Procedures, 2014  
12-07 *Disenrollment due to Maximum Reimbursable Amount Reduction, Management*  
*Bulletin, July 2012*  
Keeping Children Healthy in California's Child Care Environments: Recommendations to  
Improve Nutrition and Increase Physical Activity, 2010  
WEB SITES  
CSBA: <http://www.csba.org>  
California Association for the Education of Young Children: <http://www.caeyc.org>  
California Child Development Administrators Association: <http://www.ccdaa.org>  
California Department of Education, Early Education and Support Division:  
<http://www.cde.ca.gov/sp/cd>  
California Department of Education, Early Education Management Bulletins:  
<http://www.cde.ca.gov/sp/cd/ci/allmbs.asp>  
California Department of Social Services, Licensing Information:  
<http://ccl.d.ca.gov/PG492.htm>  
California Head Start Association: <http://caheadstart.org>  
California School-Age Consortium: <http://calsac.org>  
Commission on Teacher Credentialing: <http://www.ctc.ca.gov>  
National Association for the Education of Young Children: <http://www.naeyc.org>  
U.S. Department of Education: <http://www.ed.gov>

Policy  
adopted: April 10, 2016

LAKE COUNTY OFFICE OF EDUCATION



**CHILD CARE AND DEVELOPMENT**

**Licensing**

All LCOE child care and development services shall be licensed by the California Department of Social Services, unless exempted pursuant to Health and Safety Code 1596.792 or 22 CCR 101158.

The license shall be posted in a prominent, publicly accessible location in the facility. (Health and Safety Code 1596.8555)

Licensed child care centers shall be subject to the requirements of Health and Safety Code 1596.70-1597.21, 22 CCR 101151-101239.2, and, when applicable, 22 CCR 101451-101539.

**Program Components**

The LCOE's child care and development program shall include the following components:

1. A developmental profile recording each child's physical, cognitive, social, and emotional development which shall be used to plan and conduct developmentally and age-appropriate activities (Education Code 8203.5; 5 CCR 18272)

Program staff shall complete the "Desired Results Developmental Profile," available from the California Department of Education (CDE), for each child who is enrolled in the program for at least 10 hours per week and for any child with disabilities regardless of the number of hours enrolled. The profile shall be completed within 60 days of enrollment and at least once every six months thereafter for children of all ages. (Education Code 8203.5; 5 CCR 18270.5, 18272)

2. An educational program which complies with 5 CCR 18273, including the provision of services that are developmentally, linguistically, and culturally appropriate and inclusive of children with special needs

*(cf. 5148.2 - Before/After School Programs)*

*(cf. 5148.3 - Preschool/Early Childhood Education)*

*(cf. 6159 - Individualized Education Program)*

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

*(cf. 6164.6 - Identification and Education Under Section 504)*

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

3. A staff development program which complies with 5 CCR 18274

*(cf. 4131 - Staff Development)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

**CHILD CARE AND DEVELOPMENT** (continued)

4. Parent/guardian involvement and education which comply with 5 CCR 18275 and involve parents/guardians through an orientation, at least two individual conferences per year, meetings with program staff, an advisory committee, participation in daily activities, and information regarding their child's progress

*(cf. 6020 - Parent Involvement)*

5. A health and social services component which complies with 5 CCR 18276 and includes referrals to appropriate community agencies as needed

*(cf. 1020 - Youth Services)*

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

*(cf. 5141 - Health Care and Emergencies)*

*(cf. 5141.23 - Asthma Management)*

*(cf. 5141.6 - School Health Services)*

6. A community involvement component which complies with 5 CCR 18277
7. A nutrition component which ensures that children in the program are provided nutritious meals, beverages, and snacks that meet state and federal standards and have access to drinking water throughout the day, including at meal times (Health and Safety Code 1596.808; 5 CCR 18278; 42 USC 1766)

*(cf. 3550 - Food Service/Child Nutrition Program)*

*(cf. 5030 - Student Wellness)*

*(cf. 5141.27 - Food Allergies/Special Dietary Needs)*

8. An annual plan for program evaluation which conforms with the state's "Desired Results for Children and Families" system and includes, but is not limited to, a self-evaluation, parent survey, and environment rating scale using forms provided by the CDE (5 CCR 18270.5, 18279, 18280)

*(cf. 0500 - Accountability)*

9. Programs that promote age-appropriate structured and unstructured opportunities for physical activity and that limit the amount of time spent in sedentary activities to an appropriate level

**Staffing Ratios**

The LCOE's child care and development program shall maintain at least the minimum adult-child and teacher-child ratios specified in 5 CCR 18290-18292 based on the ages of the children served

**CHILD CARE AND DEVELOPMENT** (continued)**Eligibility and Enrollment**

The LCOE's subsidized child care and development services may be available to infants and children through age 12 years and to individuals with disabilities through age 21 years in accordance with their individualized education program and Education Code 8208. (Education Code 8208, 8263.4; 5 CCR 18089, 18407, 18422)

Eligible families shall be those who document both an eligibility basis and a need for care, as follows: (Education Code 8263)

1. The family is eligible for subsidized services on the basis of being a current aid recipient, income eligible, or homeless and/or the family's children are recipients of protective services or have been identified as being, or at risk of being, abused, neglected, or exploited.
2. The family has a need for child care based on the unavailability of the parents/guardians to care for and supervise their children for some portion of the day because they are either working, seeking employment, participating in vocational education and training programs, seeking permanent housing for family stability, or temporarily or permanently incapacitated. Alternatively, a family satisfies the need requirement if the child is identified by a legal, medical, social services agency, or emergency shelter as a recipient of child protective services or as being, or at risk of being, neglected, abused, or exploited.

The Superintendent or designee shall consult the county's centralized eligibility list, when available, or shall maintain a LCOE waiting list in accordance with admission priorities. As vacancies occur, applicants shall be contacted in order of their priority. (5 CCR 18106)

First priority for enrollment shall be given to neglected or abused children who are recipients of child protective services, or children who are at risk of being neglected or abused, upon written referral from a legal, medical, or social services agency. If unable to enroll a child in this category, the LCOE shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8263)

Second priority for enrollment shall be given to families who are income eligible, as defined in Education Code 8263.1. Families with the lowest gross monthly income in relation to family size shall be admitted first. If two or more families are in the same priority in relation to income, the family that has a child with disabilities shall be admitted first or, if there is no child with disabilities, the family that has been on the waiting list for the longest time shall be admitted first. (Education Code 8263, 8263.1)

**CHILD CARE AND DEVELOPMENT** (continued)

The LCOE shall allow eligible children ages 11-12 years to combine enrollment in a before-school or after-school program with subsidized child care services during the time that the before-school or after-school program does not operate. Children ages 11-12 years, except for children with disabilities, shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before-school or after-school program. (Education Code 8263.4)

After all children eligible for subsidized services have been enrolled, the LCOE may enroll children in accordance with the priorities established by the County Board.

The LCOE's decision to approve or deny services shall be communicated to the parent/guardian through a written Notice of Action mailed or delivered within 30 days from the date the application is signed by the parent/guardian. (5 CCR 18094, 18118)

*(cf. 5145.6 - Parental Notifications)*

Subsequently, the Superintendent or designee shall mail or deliver a Notice of Action to a parent/guardian at least 14 calendar days before any intended change in services, including, but not limited to, an increase or decrease in fees, an increase or decrease in the amount of services, or termination of services, due to any of the following circumstances: (5 CCR 18095, 18119)

1. A determination during recertification or update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified
2. Failure of the parent/guardian to document the family's need or eligibility after the LCOE requested such documentation in writing
3. An indication by the parent/guardian that he/she no longer wants the service
4. The death of a parent/guardian or child
5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

The Superintendent or designee shall establish and maintain a basic data file for each family receiving child care and development services containing the completed and signed application for services, documentation used to determine the child's eligibility and need, and copies of all Notices of Action. (5 CCR 18081, 18095)

**CHILD CARE AND DEVELOPMENT** (continued)**Fees and Charges**

Except when offering a program which is prohibited by law from charging any fees, the Superintendent or designee may charge fees for services according to the fee schedule established by the Superintendent of Public Instruction, the actual cost of services, or the maximum daily/hourly rate specified in the contract, whichever is least. (Education Code 8250, 8263, 8273, 8273.1, 8273.2, 8447; 5 CCR 18078, 18108-18110)

However, no fee shall be charged to a family that is receiving CalWORKS cash aid, an income-eligible family whose child is enrolled in a part-day California State Preschool Program, or a family whose income level, in relation to family size, is less than the first entry in the fee schedule. (Education Code 8273.1; 5 CCR 18110)

In addition, any family receiving child care on the basis of having a child who is a recipient of child protective services, or having a certification by a county child welfare agency that child care services continue to be necessary, may be exempt from these fees for up to 12 months. Any family whose child is receiving child care on the basis of being at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months, unless the family becomes eligible based on receipt of child protective services or certification of need by a county child welfare agency. The cumulative period of exemption for these purposes shall not exceed 12 months. (Education Code 8273.1)

Fees shall be assessed at initial enrollment and reassessed when a family is recertified or experiences a change in status. Fees shall be considered delinquent after seven days from the date that fees are due. Parents/guardians shall be notified in the event that fees are delinquent. If a reasonable plan for payment of the delinquent fees has not been provided by the parents/guardians, services shall be terminated if all delinquent fees are not paid within two weeks of such notification. Parents/guardians shall receive a copy of the LCOE's regulations regarding fee collection at the time of initial enrollment into the program. (Education Code 8273; 5 CCR 18082, 18114, 18115)

The Superintendent or designee shall establish a process which involves parents/guardians in determining whether to require parents/guardians to provide diapers. This process shall also be used to determine whether and how much to charge parents/guardians for field trip expenses, within the limit specified in law. A child shall not be denied participation in a field trip due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Education Code 8273.3)

**Disenrollment**

When necessary due to a reduction in state reimbursements, families shall be disenrolled from subsidized child care and development services in the following order: (Education Code 8263.3)

**CHILD CARE AND DEVELOPMENT** (continued)

1. Families with the highest income in relation to family size shall be disenrolled first.
2. If two or more families have the same income ranking, children without disabilities who have been enrolled in child care services the longest shall be disenrolled first. After all children without disabilities have been disenrolled, children with disabilities shall be disenrolled, with those who have been enrolled in child care services the longest being disenrolled first.
3. Families whose children are receiving child protective services or are at risk of neglect, abuse, or exploitation, regardless of family income, shall be disenrolled last.

Whenever the LCOE issues a notice to the families who will be disenrolled due to funding reduction, a parent/guardian may appeal the decision only on the grounds that the factors used to determine the family's disenrollment are incorrect. He/she shall submit the appeal within 14 calendar days of receipt of the notice, or within 19 calendar days if the notice was mailed.

The Superintendent or designee shall review the appeal and notify the parent/guardian, in writing, of the LCOE's final decision within 10 calendar days of receiving the appeal request. Services shall continue to be provided pending the appeal decision.

**Health Examination**

A physical examination and evaluation, including age-appropriate immunization, shall be required prior to or within six weeks of enrollment, unless the parent/guardian submits a letter stating that such examination is contrary to his/her religious beliefs. (Education Code 8263)

*(cf. 5141.22 - Infectious Diseases)*

*(cf. 5141.3 - Health Examinations)*

*(cf. 5141.31 - Immunizations)*

**Attendance**

Sign-in and sign-out sheets shall be used daily for all children for attendance accounting purposes. Attendance records shall include verification of excused absences, including the child's name, date(s) of absence, specific reason for absence, and signature of parent/guardian or LCOE representative. (5 CCR 18065, 18066)

Absences shall be excused for the following reasons:

1. Illness or quarantine of the child or of the parent/guardian (Education Code 8208)

**CHILD CARE AND DEVELOPMENT** (continued)

## 2. Family emergency (Education Code 8208)

A family emergency shall be considered to exist when unforeseen circumstances cause the need for immediate action, such as may occur in the event of a natural disaster or when a member of the child's immediate family dies, has an accident, or is required to appear in court.

## 3. Time spent with a parent/guardian or other relative as required by a court of law (Education Code 8208)

## 4. Time spent with a parent/guardian or other relative which is clearly in the best interest of the child (Education Code 8208)

An absence shall be considered to be in the best interest of the child when the time is spent with the child's parent/guardian or other relative for reasons deemed justifiable by the program coordinator or site supervisor.

Except for children who are recipients of child protective services or are at risk of abuse or neglect, excused absences in the best interest of the child shall be limited to 10 days during the contract period. (5 CCR 18066)

Any absence due to a reason other than any of those stated above, or without the required verification, shall be considered an unexcused absence. After three unexcused absences during the year, the program coordinator or site supervisor shall notify the parents/guardians. Children who continue to have excessive unexcused absences may be removed from the program at the discretion of the program coordinator in order to accommodate other families on the waiting list for admission.

Parents/guardians shall be notified of the policies and procedures related to excused and unexcused absences for child care and development services. (5 CCR 18066)

**Rights of Parents/Guardians**

At the time a child is accepted into a licensed child care and development center, the child's parent/guardian or authorized representative shall be notified of his/her rights as specified in 22 CCR 101218.1, including, but not limited to, the right to enter and inspect the child care facility and the right to be informed, upon request, of the name and type of association to the center of any adult who has been granted a criminal record exemption. (Health and Safety Code 1596.857; 22 CCR 101218.1)

The written notice of parent/guardian rights also shall be permanently posted within the facility in a location accessible to parents/guardians. Notwithstanding these rights, access to

**CHILD CARE AND DEVELOPMENT** (continued)

the facility may be denied to an adult whose behavior presents a risk to children present in the facility or to noncustodial parents/guardians when so requested by the responsible parent/guardian. (Health and Safety Code 1596.857)

**Records**

The Superintendent or designee shall maintain records of enrollment, attendance, types of families served, income received from all families participating in the LCOE's child care and development program, and any other records required by the CDE.

*(cf. 3580 - District Records)*

*(cf. 5125 - Student Records)*



**BEFORE/AFTER SCHOOL PROGRAMS**

The County Board of Education desires to provide before-school and/or after-school enrichment programs that support the regular education program and provide safe alternatives for students. In order to increase academic achievement of participating students, the content of such programs shall be coordinated with the LCOE's vision and goals for student learning, its curriculum, and LCOE and state academic standards.

- (cf. 0000 - Vision)*
- (cf. 0200 - Goals for the School District)*
- (cf. 5147 - Dropout Prevention)*
- (cf. 5148 - Child Care and Development)*
- (cf. 6011 - Academic Standards)*
- (cf. 6176 - Weekend/Saturday Classes)*
- (cf. 6177 - Summer Learning Programs)*
- (cf. 6179 - Supplemental Instruction)*

The LCOE program shall be planned through a collaborative process that includes parents/guardians, students, and representatives of participating schools, governmental agencies including city and county parks and recreation departments, local law enforcement, community organizations, and, if appropriate, the private sector. (Education Code 8422, 8482.5)

- (cf. 1020 - Youth Services)*
- (cf. 1400 - Relations Between Other Governmental Agencies and the Schools)*
- (cf. 1700 - Relations Between Private Industry and the Schools)*
- (cf. 6020 - Parent Involvement)*

The establishment of any program shall be approved by the Board and the principal of each participating school. (Education Code 8421, 8482.3)

The Superintendent or designee shall ensure that all staff who directly supervise students in the LCOE's before-school and/or after-school program possess appropriate knowledge and experience. As needed, staff and volunteers shall receive ongoing training related to their job responsibilities. (Education Code 8483.4)

- (cf. 1240 - Volunteer Assistance)*
- (cf. 4131 - Staff Development)*
- (cf. 4222 - Teacher Aides/Paraprofessionals)*
- (cf. 4231 - Staff Development)*
- (cf. 4331 - Staff Development)*

A volunteer shall submit to a criminal background check pursuant to Education Code 45125. He/she shall also submit current information to the LCOE and shall update that information whenever the information changes. (Education Code 35021.30)

The program shall include academic and enrichment elements in accordance with law and administrative regulation. In addition, the program may include support services that reinforce the educational component and promote student health and well-being.

- (cf. 0450 - Comprehensive Safety Plan)*
- (cf. 3550 - Food Service/Child Nutrition Program)*
- (cf. 5030 - Student Wellness)*
- (cf. 5131.6 - Alcohol and Other Drugs)*
- (cf. 6142.7 - Physical Education and Activity)*

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)

A fee may be charged to participating families based on the actual cost of services. The fee may be waived or subsidized based on economic need or other critical needs.

Eligible students ages 11-12 years shall be placed in a before-school or after-school program, if and when available, rather than subsidized child care and development services. During the time that the before-school or after-school program does not operate, students ages 11-12 years may be provided the option of enrolling in child care and development services in accordance with the priorities established in AR 5148 - Child Care and Development. (Education Code 8263.4)

*(cf. 3260 - Fees and Charges)*

The Board and the Superintendent or designee shall and report monitor and report student participation rates or on a semi-annual basis and shall identify multiple measures that shall be used to evaluate program effectiveness based on standards developed by the CDE. Such measures may include, but are not limited to, student outcome data; program self-assessments; feedback from staff, participating students, and parents/guardians; and observations of program activities.

*(cf. 0500 - Accountability)*

Every three years, the program shall review its after-school program plan, including program goals, program content, and outcome measures. Documentation of the program plan shall be maintained for a minimum of five years. (Education Code 8482.3)

*(cf. 3580 - District Records)*

*Legal Reference: (see next page)*

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)*Legal Reference:*EDUCATION CODE

8263 *Eligibility and priorities for subsidized child development services*  
 8263.4 *Enrollment of students ages 11-12 years*  
 8273.1 *Family fees, exemptions*  
 8350-8359.1 *Programs for CalWORKS recipients*  
 8360-8370 *Personnel qualifications*  
 8420-8428 *21st Century After-School Program for Teens*  
 8482-8484.65 *After School Education and Safety Program*  
 8484.7-8484.9 *21st Century Community Learning Centers*  
 8490-8490.7 *Distinguished After School Health Recognition Program*  
 17264 *New construction; accommodation of before- and after-school programs*  
 35021.3 *After-school physical recreation instructors*  
 45125 *Criminal record check*  
 45330 *Paraprofessionals; instructional aides*  
 35340-45349 *Paraprofessionals; instructional aides*  
 49024 *Criminal background check; Activity Supervisor Clearance Certificate*  
 49430-49434 *Nutrition standards*  
 49553 *Free or reduced-price meals*  
 69530-69547.9 *Cal Grant program*  
UNITED STATES CODE, TITLE 20  
 6314 *Title I schoolwide programs*  
 6319 *Program improvement*  
 7171-7176 *21st Century Community Learning Centers*  
UNITED STATES CODE, TITLE 42  
 1766-1766a *Child and Adult Care Food Program*  
CODE OF FEDERAL REGULATIONS, TITLE 7  
 226.17 *Nutrition standards*

*Management Resources:*CALIFORNIA DEPARTMENT OF EDUCATION PUBLICATIONS

*A Crosswalk Between the Quality Standards for Expanded Learning and Program Quality Assessment Tools, 2014*

*Quality Standards for Expanded Learning in California: Creating and Implementing a Shared Vision of Quality, 2014*

*California After School Physical Activity Guidelines, 2009*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*21st Century Community Learning Centers, Nonregulatory Guidance, February 2003*

WEB SITES

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

California Department of Education, *Before and After School*: <http://www.cde.ca.gov/ls/ba>

California Healthy Kids Survey: <https://chks.wested.org>

California School-Age Consortium: <http://calsac.org>

Commission on Teacher Credentialing: <http://www.ctc.ca.gov>

Partnership for Children and Youth: <http://partnerforchildren.org>

U.S. Department of Agriculture: <http://www.fns.usda.gov/cnd/care/afterschool.htm>

U.S. Department of Education: <http://www.ed.gov>

Policy

LAKE COUNTY OFFICE OF EDUCATION

adopted: April 10, 2016

**BEFORE/AFTER SCHOOL PROGRAMS**

**Grades K-9**

The LCOE's After School Education and Safety (ASES) program or 21st Century Community Learning Center (21st CCLC) program may serve students in grades K-9. (Education Code 8482.3, 8484.8)

Consistent with state funding priorities, the LCOE shall, to the extent feasible, give priority to establishing ASES programs that serve students in schools with the highest percentage of students eligible for free and reduced-price meals.

*(cf. 3553 - Free and Reduced Price Meals)*

The LCOE's 21st CCLC program shall primarily serve students in Title I schoolwide programs or serve a high percentage of students from low-income families. (Education Code 8484.8; 20 USC 7173)

*(cf. 6171 - Title I Programs)*

Consistent with federal funding priorities, the LCOE shall, to the extent feasible, give priority to establishing 21st CCLC programs in schools that are identified for program improvement under 20 USC 6316 and/or programs that will provide year-round expanded learning opportunities.

*(cf. 0520.2 - Title I Program Improvement Schools)*

The LCOE's ASES and 21st CCLC program(s) shall be operated in accordance with the following:

1. Program Elements

- a. The program shall include an educational and literacy element in which tutoring or homework assistance is provided in language arts, mathematics, history and social science, computer training, and/or science. (Education Code 8482.3)

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

*(cf. 6142.92 - Mathematics Instruction)*

*(cf. 6142.93 - Science Instruction)*

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

*(cf. 6163.4 - Student Use of Technology)*

- b. The program shall include an educational enrichment element which may include, but is not limited to, fine arts, career technical education, recreation, technology, physical fitness, and prevention activities. (Education Code 8482.3)

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)

- (cf. 5131.6 - Alcohol and Other Drugs)*
- (cf. 5131.62 - Tobacco)*
- (cf. 6142.6 - Visual and Performing Arts)*
- (cf. 6142.7 - Physical Education and Activity)*
- (cf. 6178 - Career Technical Education)*

2. Nutrition

- a.If snacks or meals are made available in the program, they shall conform to state nutrition standards specified in Education Code 49553 for all program participants.
- b.The LCOE's before-school program shall offer a breakfast meal as described in Education Code 49553 for all program participants. (Education Code 8483.1)

- (cf. 3550 - Food Service/Child Nutrition Program)*
- (cf. 3554 - Other Food Sales)*
- (cf. 5030 - Student Wellness)*

3. Location of Program

- a.The program may be offered at one or multiple school sites and/or at an easily available and accessible off-campus location.
- b. When there is a significant barrier to student participation in either the before-school or after-school program, the LCOE shall ensure that the program is accessible to all participating students, including those with disabilities, by providing transportation to and from the program site, including but not limited to the following: (Education Code 8482.8)

- (1) Fewer than 20 students participating in the program component
- (2) Extreme transportation constraints, including, but not limited to, desegregation busing, busing for magnet or open enrollment schools, or student dependence on public transportation

In such cases, the LCOE shall arrange for safe, supervised transportation between school sites; ensure communication among staff in the regular school program, staff in the before-school or after-school program, and parents/guardians; and ensure alignment of the educational and literacy elements with the regular school program of participating students. (Education Code 8482.8)

- (cf. 3540 - Transportation)*

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)

4. Staffing

- a. All staff members who directly supervise students shall, at a minimum, meet the qualifications for an instructional aide. (Education Code 8483.4; 20 USC 6319)

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

- b. All program staff and volunteers shall be subject to the health screening and fingerprint clearance requirements in law and Board policy. (Education Code 8483.4)

*(cf. 1240 - Volunteer Assistance)*

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*

*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*

- c. The student-to-staff ratio shall be no more than 20 to 1. (Education Code 8483.4)

5. Hours of Operation

- a. A before-school program shall not operate for less than one and one-half hours per regular school day. (Education Code 8483.1)
- b. An after-school program shall begin immediately upon the conclusion of the regular school day and shall operate a minimum of 15 hours per week and at least until 6 p.m. on every regular school day. (Education Code 8483)

6. Admissions

- a. Every student attending a school operating a program is eligible to participate in the program, subject to program capacity. (Education Code 8482.6)

*(cf. 0410 - Nondiscrimination in District Programs and Activities)*

- b. If the number of students wishing to participate in the program exceeds program capacity, students shall be selected for enrollment based on the following guidelines:
  - (1) Priority for enrollment of middle or junior high school students shall be given to students who attend daily. (Education Code 8483, 8483.1)

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)

- (2) Priority for enrollment shall be given to students identified as in need of academic remediation or support in accordance with Board policy or administrative regulations.

*(cf. 6179 - Supplemental Instruction)*

- (3) Any remaining capacity shall be filled by students selected at random.
- (4) A waiting list shall be established to accommodate additional students if space becomes available.

## 7. Attendance/Early Release

- a. Each student admitted into a LCOE program shall be expected to attend the full number of hours that the program is in operation every day that he/she participates.
- b. When necessary, a student's parent/guardian may request, in writing, that the Superintendent or designee approve the reasonable late daily arrival of his/her child for the before-school program or the reasonable early daily release of his/her child from the after-school program. The Superintendent or designee shall not approve such a request if the student would be attending less than one-half of the daily program hours.

## 8. Summer/Intersession/Vacation Programs

- a. A before-school program operating during summer, intersession, and/or vacation days shall be offered for a minimum of two hours per day. An after-school program offered during summer, intersession, and/or vacation days may be operated for either three hours or six hours per day in accordance with Education Code 8483.76. When both before-school and after-school programs are offered for the same students on such days, they shall be operated for a minimum of four and one-half hours per day. (Education Code 8483, 8483.1, 8483.2, 8483.76)
- b. A program offered during summer, intersession, and/or vacation periods may open eligibility to every student attending a school in the ~~district~~ county, with priority for enrollment given to students enrolled in the school that received the grant. (Education Code 8483.76)
- c. To address the needs of students and school closures, the program may be conducted at an off-site location or an alternate school site. The program shall notify the California Department of Education (CDE) of the change of location and shall include a plan to provide safe transportation pursuant to Education Code 8484.6. (Education Code 8483.76)

**BEFORE/AFTER SCHOOL PROGRAMS** (continued)

- d. Any program operating for six hours per day shall provide at least one nutritionally adequate free or reduced-price meal to each eligible student during each program day. (Education Code 8483.76)
- e. For any program operating six hours per day, LCOE procedures pertaining to student attendance and early release as specified in item #7 above shall apply. (Education Code 8483.76)

*(cf. 6177 - Summer Learning Programs)*

**Volunteers**

The Superintendent or designee may establish a registry of volunteer after-school physical recreation instructors and other before-school and after-school program volunteers. (Education Code 35021.3)

To be included in the registry, a volunteer shall submit to a criminal background check pursuant to Education Code 45125. He/she also shall submit current contact information to the LCOE and shall update that information whenever the information changes. (Education Code 35021.3)

The Superintendent or designee may use a volunteer registered with the LCOE or may select another person to provide physical recreation to students after school hours or to provide other services. (Education Code 35021.3)

**Reports**

The Superintendent or designee shall annually submit to the CDE outcome-based data, including, but not limited to: (Education Code 8427, 8482.3, 8484)

- 1. For participating students, school day attendance on an annual basis and program attendance on a semi-annual basis
- 2. Evidence of a program quality improvement process that is data driven and based on CDE program quality standards

*(cf. 0500 - Accountability)*

Regulation  
approved: April 10, 2016

LAKE COUNTY OFFICE OF EDUCATION  
MARCH 2016



**PRESCHOOL/EARLY CHILDHOOD EDUCATION**

The County Board of Education recognizes that high-quality preschool experiences help children ages 3-4 years to develop knowledge, skills, abilities, and attributes necessary for a successful transition into the elementary education program. Early education programs should provide developmentally appropriate activities in a safe, adequately supervised, and cognitively rich environment

**Collaboration with Community Programs**

The Superintendent or designee shall collaborate with the local child care and development planning council, other public agencies, organizations, school districts, and/or private preschool providers to assess the availability of preschool programs in the community and the extent to which the community's preschool needs are being met. The Board encourages the development of a comprehensive countywide and/or districtwide plan to increase children's access to high-quality preschool programs.

*(cf. 1020 - Youth Services)*

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

*(cf. 1700 - Relations Between Private Industry and the Schools)*

*(cf. 5148 - Child Care and Development)*

The Superintendent or designee shall provide information about preschool options in the community to parents/guardians upon request.

**LCOE's Preschool Programs**

When the Board determines that it is feasible, the LCOE may contract with the California Department of Education (CDE) to provide preschool services in facilities at or near district schools.

The Board shall approve for the LCOE's preschool program a written philosophical statement, goals, and objectives that reflect the cultural and linguistic characteristics of the families to be served and address the program components specified in 5 CCR 18272-18281 and the accompanying administrative regulation. (5 CCR 18271)

The Board shall set priorities for establishing or expanding services as resources become available, giving consideration to the benefits of providing early education programs for at-risk children and/or children residing in the attendance areas of the lowest performing district schools.

*(cf. 0520.2 - Title I Program Improvement Schools)*

*(cf. 6171 - Title I Programs)*

On a case-by-case basis, the Board shall determine whether the LCOE shall directly administer a preschool program or contract with a public or private provider to offer such a program.

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

Facilities for preschool classrooms shall be addressed in the LCOE's facilities master plan, including an assessment as to whether adequate and appropriate space exists on school sites. As necessary, the Superintendent or designee shall provide information to the Board regarding facilities financing options for preschool classrooms and/or facilities available through partnering organizations or agencies.

*(cf. 1330.1 - Joint Use Agreements)*

*(cf. 7110 - Facilities Master Plan)*

*(cf. 7210 - Facilities Financing)*

Because parents/guardians are essential partners in supporting the development of their children, the Superintendent or designee shall involve them in program planning.

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

*(cf. 6020 - Parent Involvement)*

The Superintendent or designee shall coordinate planning efforts for the LCOE's preschool program, transitional kindergarten program, and elementary education program to provide a developmental continuum that builds upon children's growing skills and knowledge.

*(cf. 6011 - Academic Standards)*

*(cf. 6170.1 - Transitional Kindergarten)*

The LCOE's program shall be aligned with preschool learning foundations and curriculum frameworks developed by the CDE which identify the knowledge, skills, and competencies that children typically attain as they complete their first or second year of preschool. The program shall be designed to facilitate children's development in essential skills related to language and literacy, mathematics, physical development, health, visual and performing arts, science, history-social science, English language development, and social-emotional development.

The LCOE's preschool program shall provide appropriate services to support the needs of English learners and children with disabilities.

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

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

The LCOE shall encourage volunteerism in the program and shall communicate frequently with parents/guardians of enrolled children regarding their child's progress.

*(cf. 1240 - Volunteer Assistance)*

To maximize the ability of children to succeed in the preschool program, the program shall support children's health through proper nutrition and physical activity and shall provide or make referrals to available health and social services as needed.

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

*(cf. 3550 - Food Services/Child Nutrition Program)*

*(cf. 5030 - Student Wellness)*

*(cf. 5141.31 - Immunizations)*

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

*(cf. 5141.6 - School Health Services)*

The Superintendent or designee shall ensure that administrators, teachers, and paraprofessionals in LCOE preschool programs possess the appropriate permit(s) issued by the Commission on Teacher Credentialing, meet any additional qualifications established by the Board, and participate in professional development opportunities designed to continually enhance their knowledge and skills.

*(cf. 4112.2 - Certification)*

*(cf. 4112.4/4212.4/4312.4 - Health Examinations)*

*(cf. 4112.5/4212.5/4312.5 - Criminal Record Check)*

*(cf. 4131 - Staff Development)*

*(cf. 4222 - Teacher Aides/Paraprofessionals)*

*(cf. 4231 - Staff Development)*

*(cf. 4331 - Staff Development)*

Preschool admissions policies and procedures shall be in writing and available to the public. Such policies and procedures shall include criteria designating those children whose needs can be met by the program and services, the ages of children who will be accepted, program activities, any supplementary services provided, any field trip provisions, any transportation arrangements, food service provisions, and a health examination requirement. (CCR 18105; 22 CCR 101218)

The Superintendent or designee shall ensure that subsidized preschool is provided to eligible families to the extent that state and/or federal funding is available and shall establish enrollment priorities in accordance with Education Code 8263 and 5 CCR 18106.

The Superintendent or designee shall recommend strategies to link the LCOE's preschool program with other available child care and development programs in the county or community in order to assist families whose child care needs extend beyond the length of time that the LCOE's part-day preschool program is offered.

The Superintendent or designee shall develop and implement an annual plan of evaluation which conforms to state requirements. (5 CCR 18279)

The Superintendent or designee shall regularly report to the Board regarding enrollments in LCOE preschool programs and the effectiveness of the programs in preparing preschoolers for transition into the elementary education program.

*(cf. 0500 - Accountability)*

*Legal Reference: (see next page)*

**PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)**

*Legal Reference:*

EDUCATION CODE

8200-8499.10 *Child Care and Development Services Act, especially:*  
8200-8209 *General provisions for child care and development services*  
8230-8233 *Migrant child care and development program*  
8235-8239 *California State Preschool Program*  
8240-8244 *General child care and development programs*  
8250-8252 *Programs for children with special needs*  
8263 *Eligibility and priorities for subsidized child development services*  
8263.3 *Disenrollment of families due to reduced funding levels*  
8300-8303 *Early Learning Quality Improvement System Advisory Committee*  
8360-8370 *Personnel qualifications*  
8400-8409 *Contracts*  
8493-8498 *Facilities*  
8499.3-8499.7 *Local child care and development planning councils*  
48000 *Transitional kindergarten*

HEALTH AND SAFETY CODE

1596.70-1596.895 *California Child Day Care Act*  
1596.90-1597.21 *Day care centers*  
120325-120380 *Immunization requirements*

CODE OF REGULATIONS, TITLE 5

18000-18434 *Child care and development programs, especially:*  
18130-18136 *California State Preschool Program*  
18295 *Waiver of qualifications for site supervisor*  
80105-80125 *Permits authorizing service in child development programs*

UNITED STATES CODE, TITLE 20

6311-6322 *Title I, relative to preschool*  
6319 *Qualifications for teachers and paraprofessionals*  
6371-6376 *Early Reading First*  
6381-6381k *Even Start family literacy programs*  
6391-6399 *Education of migratory children*

UNITED STATES CODE, TITLE 42

9831-9852 *Head Start programs*  
9858-9858q *Child Care and Development Block Grant*

CODE OF FEDERAL REGULATIONS, TITLE 22

101151-101239.2 *General requirements, licensed child care centers, including:*  
101151-101163 *Licensing and application procedures*

*Legal Reference continued: (see next page)*

**PRESCHOOL/EARLY CHILDHOOD EDUCATION (continued)**

*Legal Reference: (continued)*

CODE OF FEDERAL REGULATIONS, TITLE 22 (continued)

101212-101231 *Continuing requirements*

101237-101239.2 *Facilities and equipment*

OF FEDERAL REGULATIONS, TITLE 45

1301-1310 *Head Start*

*Management Resources:*

CSBA PUBLICATIONS

*Expanding Access to High-Quality Preschool Programs, 2008*

*California Preschool Learning Foundations*

14-02 *Enrolling and Reporting Children in California State Preschool Programs*,  
April 2014

12-08 *Disenrollment Due to 2012-13 Budget Reduction for California State  
Preschool Programs, Management Bulletin, July 2012*

*Dream Big for Our Youngest Children: Final Report of the California Early Learning  
Quality Improvement System Advisory Committee, 2010*

*Preschool English Learners: Principles and Practices to Promote Language,  
Literacy, and Learning, 2nd ed., 2009*

*Prekindergarten Learning Development Guidelines, 2000*

*First Class: A Guide for Early Primary Education, 1999*

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

*Good Start, Grow Smart, April 2002*

WEB SITES

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

California Association for the Education of Young Children: <http://www.caeyc.org>

California Children and Families Commission: <http://www.cffc.ca.gov>

California County Superintendents Educational Services Association: <http://www.ccsesa.org>

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

California Head Start Association: <http://caheadstart.org>

California Preschool Instructional Network: <http://www.cpin.us>

Child Development Policy Institute: <http://www.cdpi.net>

Cities, Counties, and Schools Partnership: <http://www.ccspartnership.org>

First 5 Association of California: <http://www.f5ac.org>

National Institute for Early Education Research: <http://nieer.org>

National School Boards Association: <http://www.nsba.org>

Preschool California: <http://www.preschoolcalifornia.org>

U.S. Department of Education: <http://www.ed.gov>

**PRESCHOOL/EARLY CHILDHOOD EDUCATION**

When approved by the California Department of Education (CDE) under the California State Preschool Program, the LCOE may operate one or more part-day preschool programs in accordance with law and the terms of its contract with the CDE.

*(cf. 5148 - Child Care and Development)*

The LCOE's preschool program shall include all required program components, as described in 5 CCR 18272-18281 and AR 5148 - Child Care and Development, for the educational program, the creation of a developmental profile for each child, staff development, parent involvement and education, community involvement, health and social services, nutrition, and program evaluation. (5 CCR 18271-28281)

**Minimum Hours/Days of Operation**

The LCOE's part-day preschool program shall operate a minimum of three hours per day, excluding time for home-to-school transportation, and for a minimum of 175 days per year unless otherwise specified in the program's contract. (Education Code 8235; 5 CCR 18136)

**Staffing Ratios**

The preschool program shall maintain an adult-child ratio of at least one adult for every eight children and a teacher-child ratio of at least one teacher for every 24 children. If the LCOE cannot recruit a sufficient number of parents/guardians or volunteers to meet the required adult-child ratio, teacher aides shall be hired as necessary. (5 CCR 18135, 18290)

*(cf. 1240 - Volunteer Assistance)*

*(cf. 6020 - Parent Involvement)*

**Wraparound Child Care Services**

In accordance with its contract with the CDE, the LCOE may offer full-day services to meet the needs of eligible families through a combination of part-day preschool and wraparound child care services that are offered for the remaining portion of the day or year following completion of the preschool services. Child care and development services offered through this program shall meet the requirements of general child care and development programs pursuant to Education Code 8240-8244. (Education Code 8239)

Wraparound services shall operate a minimum of 246 days per year unless otherwise specified in the contract. For this period of time, part-day preschool programs shall operate 175-180 days and general child care and development programs may operate a full day for the remainder of the year after the completion of the preschool program. (Education Code 8239)

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)**Family Literacy Services**

When any LCOE preschool program receives funding for family literacy services pursuant to Education Code 8238.4, the Superintendent or designee shall coordinate the provision of: (Education Code 8238)

1. Opportunities for parents/guardians to work with their children on interactive literacy activities, including activities in which parents/guardians actively participate in facilitating their children's acquisition of prereading skills through guided activities such as shared reading, learning the alphabet, and basic vocabulary development
2. Parenting education for parents/guardians of participating children to support their children's development of literacy skills, including, but not limited to, parent education in:
  - a. Providing support for the educational growth and success of their children
  - b. Improving parent-school communications and parental understanding of school structures and expectations
  - c. Becoming active partners with teachers in the education of their children
  - d. Improving parental knowledge of local resources for the identification of and services for developmental disabilities, including, but not limited to, contact information for the LCOE special education referral
3. Referrals to providers of adult education and instruction in English as a second language as necessary to improve parents/guardians' academic skills

*(cf. 6200 - Adult Education)*

4. Staff development for teachers in participating classrooms that includes, but is not limited to:
  - a. Development of a pedagogical knowledge, including, but not limited to, improved instructional strategies
  - b. Knowledge and application of developmentally appropriate assessments of the prereading skills of children in participating classrooms
  - c. Information on working with families, including the use of on-site coaching, for guided practice in interactive literacy activities

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

- d. Providing targeted interventions for all young children to improve kindergarten readiness upon program completion

*(cf. 4131 - Staff Development)*

**Eligibility and Enrollment**

Children eligible for the LCOE's preschool program include those who will have their third or fourth birthday on or before September 1 of the fiscal year that they are being served. (Education Code 8208, 8235, 8236)

When a child is eligible for both the preschool program and the LCOE's transitional kindergarten program, the family may choose the most appropriate program for the child. In accordance with the enrollment priorities described below, the child may be enrolled in both programs provided that the child is not enrolled in both programs for the same time period on the same day.

*(cf. 5111 - Admission)*

*(cf. 6170.1 - Transitional Kindergarten)*

Eligibility for subsidized preschool shall be as follows:

1. Children shall be eligible for subsidized preschool services if their family is a current aid recipient, income eligible, or homeless and/or the family's children are recipients of protective services or have been identified as being, or at risk of being, abused, neglected, or exploited. (Education Code 8235, 8263, 8263.1; 5 CCR 18131, 18134)
2. Children shall be eligible for subsidized wraparound preschool and child care services if their family meets at least one of the criteria specified in item #1 above or needs child care services due to either of the following circumstances: (Education Code 8239, 8263)
  - a. The child is identified by a legal, medical, or social services agency or emergency shelter as a recipient of protective services or as being, or at risk of being, neglected, abused, or exploited.
  - b. The parents/guardians are engaged in vocational training leading directly to a recognized trade, paraprofession, or profession; are employed or seeking employment; are seeking permanent housing for family stability; or are incapacitated.

The Superintendent or designee shall consult the county's centralized eligibility list, when available, or shall maintain a LCOE's waiting list in accordance with admission priorities. As vacancies occur, applicants shall be contacted in order of their priority. (5 CCR 18106)



**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

First priority for enrollment in a preschool program shall be given to neglected or abused children age 3 or 4 years who are recipients of child protective services or who, based upon written referral from a legal, medical, or social service agency, are at risk of being neglected, abused, or exploited. If unable to enroll a child in this category, the LCOE shall refer the child's parent/guardian to local resource and referral services so that services for the child can be located. (Education Code 8236; 5 CCR 18131)

*(cf. 1020 - Youth Services)*

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

*(cf. 1700 - Relations Between Private Industry and the Schools)*

After all children with first priority are enrolled, the LCOE shall give second priority to eligible children age 4 years who are not enrolled in a transitional kindergarten program prior to enrolling eligible children age 3 years. (Education Code 8236)

After enrolling all eligible children who meet the criteria for subsidized services, up to 10 percent of the program's enrollment, calculated throughout the entire contract, may be filled with children who exceed the age limitations and children whose family income is no more than 15 percent above the income eligibility threshold. (Education Code 8235; 5 CCR 18133)

The LCOE may certify eligibility and enrollment up to 120 calendar days prior to the first day of the beginning of the preschool year. After establishing eligibility at the time of initial enrollment, a child shall remain eligible for the remainder of the program year. (Education Code 8237; 5 CCR 18082)

The LCOE's decision to approve or deny a child's enrollment shall be communicated to the family through a written Notice of Action mailed or delivered within 30 days from the date the application is signed by the parent/guardian. (5 CCR 18094, 18095, 18118)

*(cf. 5145.6 - Parental Notifications)*

Subsequently, the Superintendent or designee shall mail or deliver a Notice of Action to a parent/guardian at least 14 calendar days before any intended change in services, including, but not limited to, an increase or decrease in fees, an increase or decrease in the amount of services, or termination of services, due to any of the following circumstances: (5 CCR 18095, 18119)

1. A determination during recertification or update of the application that the need or eligibility requirements are no longer being met or the fee or amount of service needs to be modified
2. Failure of the parent/guardian to document the family's need or eligibility after LCOE requested such documentation in writing

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

3. An indication by the parent/guardian that he/she no longer wants the service
4. The death of a parent/guardian or child
5. The conclusion of a limited-term agreement, provided that the parent/guardian has been informed in writing of the date that the services would terminate

For each child enrolled in the LCOE's preschool program, the Superintendent or designee shall maintain a family data file containing a completed and signed application for services, documentation of income eligibility, and a copy of all Notices of Action. For each child not receiving subsidized services, the family data file shall also include records of the specific reason(s) for enrolling each child, the child's family income, and evidence that the LCOE has made a diligent search for children eligible for subsidized services. (5 CCR 18130, 18133, 18081, 18084)

*(cf. 1340 - Access to District Records)*

*(cf. 3580 - District Records)*

*(cf. 5125 - Student Records)*

**Fees and Charges**

Fees for participation in the LCOE's preschool program shall be assessed and collected in accordance with the fee schedule established by the Superintendent of Public Instruction. (Education Code 8273, 8273.2; 5 CCR 18078)

*(cf. 3260 - Fees and Charges)*

However, no fee shall be charged to an income-eligible family whose child is enrolled in a part-day preschool program, a family that is receiving CalWORKs cash aid, or a family that is otherwise exempted pursuant to Education Code 8273.1. (Education Code 8273.1; 5 CCR 18110)

In addition, any family qualifying for subsidized preschool on the basis of having a child who is a recipient of child protective services, or having a certification by a county child welfare agency that services continue to be necessary, may be exempt from these fees for up to 12 months. Any family whose child is receiving subsidized preschool on the basis of being at risk of abuse, neglect, or exploitation may be exempt from these fees for up to three months, unless the family becomes eligible based on receipt of child protective services or certification of need by a county child welfare agency. The cumulative period of exemption for these purposes shall not exceed 12 months. (Education Code 8273.1)

**PRESCHOOL/EARLY CHILDHOOD EDUCATION** (continued)

The Superintendent or designee shall establish a process which involves parents/guardians in determining whether to require parents/guardians to provide diapers. This process shall also be used to determine whether and how much to charge parents/guardians for field trip expenses, within the limit specified in law. A child shall not be denied participation in a field trip due to the parent/guardian's inability or refusal to pay the fee, and no adverse action shall be taken against a parent/guardian for that inability or refusal. (Education Code 8273.3)

**Disenrollment**

When necessary due to a reduction in state reimbursements, families shall be disenrolled in the following order: (Education Code 8236, 8263.3)

1. Children age 3 years whose families have the highest income in relation to family size shall be disenrolled first, followed by children age 4 years whose families have the highest income in relation to family size.

At each age level, if two or more families have the same income ranking, the child with disabilities shall be disenrolled last. If there are no families that have a child with disabilities, the child who has received services the longest shall be disenrolled first.

2. Families of children age 3 or 4 years who are receiving child protective services or who have been documented to be at risk of being neglected, abused, or exploited, regardless of income, shall be disenrolled last.

Regulation  
approved:  
April 10, 2016

LAKE COUNTY OFFICE OF EDUCATION