



A Comprehensive Guide to Student Discipline

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Presenter



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Topics



Role and Purpose of Student Discipline

Legal Framework of Suspensions/Expulsions

Investigations and Searches/Seizures

Violence Prevention and Threat Assessments

Disability Protections in Student Discipline



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The Role & Purpose of Student Discipline in Schools

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Schools Must Keep Students Safe on Campus

“All students and staff of primary, elementary, junior high, and senior high schools . . . have the inalienable right to attend campuses which are safe, secure, and peaceful.” (Cal. Const., art. I, § 28(f)(1).)

The Safe Place to Learn Act requires that all school districts improve student safety at schools and reduce all acts of discrimination, harassment, violence, intimidation, and bullying.



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Striking an Appropriate Balance

- Duty to educate **all** students.
- Duty to provide a **safe** and **secure** learning environment.
- Duty to provide equal and equitable access to all students, in that safe and secure learning environment.



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The Old Days: Traditional Approach to Discipline



Disciplinable Offense



Expulsion



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Legislative Emphasis on Alternative Means of Correction

“It is further the intent of the Legislature that the Multi-Tiered System of Supports, which includes restorative justice practices, trauma-informed practices, social and emotional learning, and schoolwide positive behavior interventions and support, may be used to help pupils gain critical social and emotional skills, receive support to help transform trauma-related responses, understand the impact of their actions, and develop meaningful methods for repairing harm to the school community.”



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(Ed. Code, § 48900, subd. (w)(2).)

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Knowledge Check!

What document tells us that all students have “the inalienable right to attend campuses which are safe, secure, and peaceful.”



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The Legal Framework: Suspensions and Expulsions

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Suspensions and Expulsions – Due Process

- Students have a property right to public education.
- Due process is required before the deprivation of a right.
- The amount of process due to a pupil is dependent upon the nature of the infringement.
- In California, the Legislature established parameters for due process for suspensions and expulsions.
- Expulsions have full hearing rights and appeal rights.
- Short-term suspensions have minimal due process.



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Jurisdiction for Discipline



- Schools can discipline for misconduct **related to a school activity or school attendance**.
- Jurisdiction exists:
 - On any school grounds in California.
 - Coming or going to school.
 - During lunch period, even when off campus.
 - During, coming, or going to a school-sponsored activity.



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Jurisdiction for Off-Campus Speech

The Speech Must:

- Be tied closely enough (have some nexus) to the school, **or**
- It must be reasonably foreseeable that the off-campus speech would reach the school; **and**
- The speech must substantially disrupt or materially interfere with the school environment or activities, **or**
- It must be reasonable to forecast that it will cause a substantial disruption or material interference.



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Student Off-Campus Speech: Ninth Circuit Upholds Decision to Expel Student for Creating “Hit List”

- High school sophomore created a personal journal with a “hit list” of students that “must die.”
- Student had access to firearms and lived within close proximity of the high school.
- The Court held there is **always** a sufficient nexus between a student’s speech and a school when it faces a credible, identifiable threat of school violence.



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U.S. Supreme Court Addresses Discipline for Off-Campus Speech

- The Supreme Court ruled in favor of a student whose off-campus social media (Snapchat) posts resulted in her suspension from her school’s cheerleading team.
- The court confirmed that some types of student expression outside of school may be subject to regulation but found that the facts of this case did not rise to that level.
- Such cases remain fact-specific and require case-by-case analysis.



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Suspension Limits - First Offense

- May suspend **ONLY** if other means of correction have failed.
- For first offense, only if:
presence cause danger to persons OR violation of first five § 48900 offenses.



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SB 274 (2023) - The “Keep Kids in School Act”

Prohibition on **suspension** for all students for **willful defiance** or **disruption**.

Utilize in-school interventions.

- At-risk students more likely to be excluded for **willful defiance** or **disruption**.
- Subjectivity, equity, access all at issue.
- Must be documented and reported within five school days.
- MTSS.
- Restorative Practices.
- Instructional Responses.



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Education Code § 48900 (k) – Willful Defiance/Disruption

- Staff may refer student to school administrators for alternative means of correction to address (k) violations.
- School administrator shall, within five business days:
 - Document the actions taken place and place that documentation in the student's record; and
 - Inform the referring staff member, verbally or in writing, what actions were taken and, if none, the rationale used for not providing any appropriate or timely in-school interventions or supports.
- Does not apply to teacher suspensions under 48910.



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Mandatory vs. Discretionary – The Big Five



MUST suspend AND recommend for expulsion for the following:

- Possessing, selling, or furnishing a firearm.
- **Brandishing** a knife at another person.
- **Selling** drugs.
- Sexual assault/battery.
- Possession of an explosive.



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Quasi-Mandatory Expulsion Referral (§ 48915(a).)

MUST recommend expulsion **unless** it is determined that expulsion is not appropriate or other means of correction would address the following:

- Causing serious physical injury to another person except in self-defense.
- Possessing a knife or other dangerous object.
- **Possessing drugs.**
- Robbery or extortion.
- Assault or battery on a school employee.



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Discretionary Expulsion Referral (§ 48900.)

MAY recommend expulsion for, including but not limited to:

- | | |
|--|--|
| ▪ Possessing an imitation firearm. | ▪ Engaged in habitual profanity or vulgarity. |
| ▪ Caused/attempted to cause damage to school property. | ▪ Possessed drug paraphernalia. |
| ▪ Committed an obscene act. | ▪ Knowingly received stolen school property or private property. |



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Secondary Findings for Expulsion

All expulsions other than the “Big Five” require “**secondary findings**.” It must be shown by substantial evidence:

- That **other means of correction are not feasible** or have repeatedly failed to bring about proper conduct; or
- That 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.



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Investigations and Student Search/Seizure

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Gather the Evidence for Disciplinary Investigations



1. Interview students and staff.

2. Gather the who, what, where, when, how, and why.

3. Is there physical evidence?



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Documenting Your Investigation

- Identify the date, time, and location of incident.
- Include a detailed description of conduct.
- Create a clear timeline.
- Identify all witnesses.
- Use objective, descriptive language:
 - ✗ Student was being unreasonable and violent towards the teacher.
 - ✓ Student threw a chair at the classroom window and yelled, “I’m going to choke you” at Mr. Hill.



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Collecting the Student's Own Words

- **Common Challenge:** an administrator interviews a student, writes notes in their own language, and calls it “the student’s statement.”
- **Parents challenge this at hearing:** “That’s the administrator’s summary, not what my child said.”
- **Best Practice:** Have the student write their own statement whenever possible.
- Separate the student statement from your own investigator notes.



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Building Your Case and Documentation

Types of Evidence

From Students

- Text or social media messages
- Photographs
- Cell phone recordings or videos
- Written and signed witness statements

Other Sources

- Attendance records
- Discipline records
- Observing the scene



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Search and Seizure – Fourth Amendment

The right of the people to be secure in their persons, houses, papers, and effects, against **unreasonable searches and seizures**, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.



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Student Searches and Seizures

General Rule: Schools may only search or seize a student if there is a **reasonable suspicion based upon articulable facts**.

**Student expectation
of privacy**

vs.

**District's interest in
maintaining order/safety**



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General Search Standard for School Administrators

- Search **justified at its inception**; *and*
- The scope of the search, as actually conducted, is **reasonably related in scope and method** to the circumstances that justified the original search.



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General Search Standard for School Administrators

Justified at Inception:

Administrator has *reasonable grounds to suspect* the search will disclose evidence that the student has or is violating the law or a school rule.

Reasonable Suspicion:

Suspicion must be supported by articulable facts.

Reasonable Scope:

There *must be* “[a] correlation between the wrongful behavior of the student and the intended findings of the search.”



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Hypothetical

Reno, the Assistant Principal, notices Student William walking through campus. As Reno proceeds towards William, he notices that William was carrying a small black bag vinyl calculator case. William looks at the bag as Reno approaches. Reno thinks the case has an odd-looking bulge. Reno asks where William is heading and why he is late for class. As Reno spoke, William placed the case behind his back. Reno asked William what he had in his hand. William replied, "Nothing." When Reno attempted to see the case, William said "You can't search me."

- **Can the Assistant Principal conduct a search?**



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Reasonable Suspicion Examples

- Independent reports by more than one student.
- Student demeanor and/or mental or physical condition.
- Single, highly reliable student or a staff member.
- Outside informant who provides a significant level of detail concerning the identity of the alleged wrongdoer and the specific nature and location of the contraband.



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Student Searches



No searches of sensitive body areas and no removal or rearrangement of clothing for the purpose of visually inspecting underclothing, breasts, buttocks, or genitalia.



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Student Searches



- Searches of students should be generally be performed by administrators.
- Searches should be performed with a second district employee present as a witness.



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Modified Cell Phone Search Guidelines - SB 178

T.L.O. is still the standard and still must be satisfied but due to SB 178, the following procedures should be followed:

- Student consent.
- Parent/Guardian consent.
- Emergency exception.
- Evidence to establish past wrongdoing.
- Non-emergency situations.
- Temporary possession of phone by administrators.



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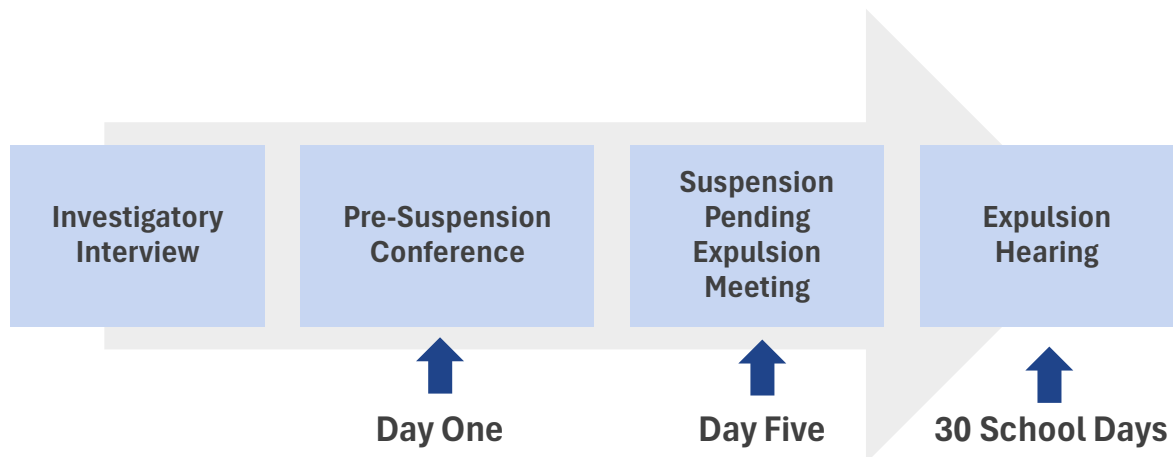
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Discipline Timeline

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Grounds for Suspension and Expulsion

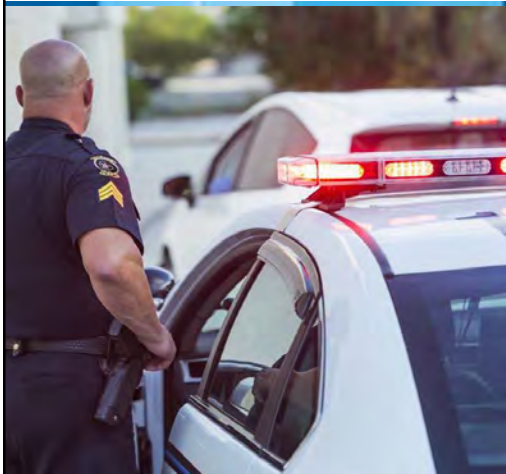


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Discipline Timeline: Day 1



1. Investigate.
2. Hold pre-suspension conference.
3. Notify police, as necessary.
4. Issue suspension notice.
5. Notify parent/guardian.



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Pre-Suspension Conference and AB 667

Informal conference must precede discipline, unless emergency.

Attended by student, principal, superintendent/designee.

Allow student to share their version of facts and evidence.

Inform student of reasons and evidence.

Alternative means of correction attempted should be discussed.



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Title IX and Interim Measures



- When conduct involves discrimination based on sex, reach out to your Title IX Coordinator.
- Interim measures may be necessary:
 - Counseling.
 - Medical services.
 - Academic support.
 - No contact orders.
 - Changed schedules.



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Assembly Bill 982 (2019)

For suspensions lasting **two or more days**:

- Requires provision of homework assignments to students upon the request of the parent, guardian, or student.



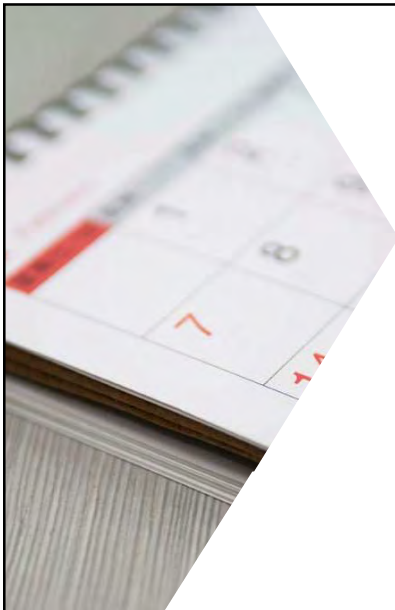
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Discipline Timeline: Day Five

- By school day five, prepare and provide the District Office with the Recommendation for Expulsion.
- Superintendent's designee informs parent of the Recommendation for Expulsion.
- Designee invites student and parent to meet further regarding extending the suspension until the Governing Board has decided the expulsion.



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Discipline Timeline: Day Five

- After meeting, the Superintendent or designee makes the finding of whether the student's presence at school or in alternative school placement would cause danger to persons or property or threat of disrupting instructional process.
- Superintendent or designee provides written notice of this finding to parent and informs parent that the student is suspended until the Governing Board determines whether to expel.
- Also provide parent with Principal's Recommendation for Expulsion.



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Discipline Timeline

- Prepare and send to parent Notice of Expulsion Hearing at least 10 calendar days prior to the scheduled expulsion hearing.
- Expulsion hearing must take place within 30 school days of the site administrator's determination that the student committed the expellable offense.

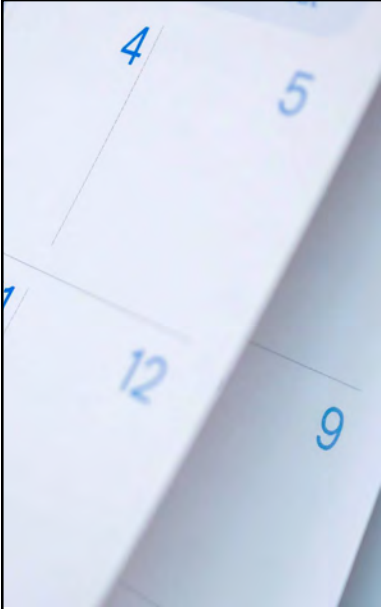
Practice Tip: Although not required by statute, prepare and send parents copy of District's evidence to be used at expulsion hearing. Parents should ideally receive this evidence with the Notice of Expulsion Hearing.



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Knowledge Check!

The District is required to provide homework assignments to students, upon request, for suspensions lasting how many days?

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Notice of Hearing

Must include:

- Date and place of hearing.
- Specific facts and charges – cite all Education Code sections.
- Copy of District disciplinary rules related to violation.
- Obligation to inform new districts of expulsion status.



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Expulsion Process Overview

1. Hearing Officer/Lead Panel Member explains process.
2. District administrator puts on their case and calls witnesses.
3. Student has the right to question all evidence and witnesses.
4. Student may offer evidence and witnesses.
5. District administrator may question student's witnesses.
6. District gives closing remarks.
7. Student gives closing remarks.
8. Panel adjourns the hearing and deliberates.



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Expulsion Hearing



Must prove that (1) student committed an expellable offense; (2) the District had jurisdiction; and for all but Big Five offenses (3):

- Other means of correction are not feasible or have repeatedly failed to bring out proper conduct; OR
- Due to nature of violation, student's presence causes continuing danger to physical safety of student or others.



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Witnesses and Documents

Who should testify?

- School officials/employees.
- Other adults.
- Student witnesses.
- SROs/police.
- Administrator presenting the case.
- Any other person with knowledge of the offense.

What documents?

- Student file.
- Investigation report.
- Suspension/expulsion notices.
- Witness statements.
- Police reports.
- Fear declarations.
- Videos, messages, social media, etc.



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Hearsay

Hearsay is a statement, made by someone other than the witness testifying at the hearing, that is offered to prove the truth of the matter asserted.

Exceptions include:

- Admissions by a party;
- Excited utterance;
- Declaration against interest; and
- Prior inconsistent statements.

A principal's restatement of the pertinent facts is insufficient to uphold a decision to expel without evidentiary support.



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Fear Declarations

- Student declarations can be submitted **as non-hearsay** evidence if intimidation keeps them from being present at the hearing.
- Administrative Panel or Board must make a finding that disclosure of the witness's identity or the witness's testimony at the hearing would subject the witness to an unreasonable risk of physical (or psychological) harm.



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Weighing the Evidence

An expulsion recommendation must be based on **substantial evidence** relevant to the charges adduced at the hearing.



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Hearing Decision Process

- **Three school days** after hearing, the panel/hearing officer must submit:
 - Recommendation regarding expulsion.
 - Findings of fact supporting recommendation.
 - Additional findings (if not mandatory expulsion).
- Board makes decision within **10 schooldays** after hearing or within **40 schooldays** after initial removal (if panel/hearing officer used).



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Hearing Decision Process



If panel doesn't recommend expulsion, the matter does not go to the Board. Student is immediately reinstated to same classroom program.



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Expulsion Order – Required Content



- **Education Code violations.**
- **Reference to § 48915** for procedural requirements.
- **Additional findings** made by Board (if required).
- **Review date** for readmission.
- **Rehabilitation plan.**
- **Educational program** during expulsion.
- **Notice obligation** to inform new district.
- **Appeal rights.**



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Appeals to County Board of Education

- Student can appeal within **30 calendar days** of District Board action.
- County Board holds hearing with **20 schooldays** of appeal filing.
- County Board may:
 - Affirm expulsion (uphold District decision).
 - Reverse expulsion.
 - Remand (send back to District for additional findings or new hearing).
 - Hold de novo hearing (if relevant new evidence exists).
- County Board decision is final and binding on both student and the District.



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Expulsion Does Not Mean Abandonment

A student that is expelled still has to be provided a program of study:

- 1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.
- 2) Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
- 3) Is not housed at the school site attended by the pupil at the time of suspension.

For students in special education, district **must provide educational services** to enable the child to participate in general ed curriculum and progress toward IEP goals.



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Readmission

Under AB 1230, Education Code section 48916, subd. (c) is amended to read:

- "...[T]he governing board shall readmit the pupil, **unless the governing board makes a finding** that the pupil...
 - (A) Has not substantially met the conditions of the rehabilitation plan despite having access to the necessary resources and viable opportunities to complete their rehabilitation plan; or
 - (B) Continues to exhibit documented behaviors that the pupil was expelled for or is documented to have committed one or more new acts during the expulsion term that would make the pupil eligible for another expulsion.



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AB 1230 – Student Rehabilitation Plans

- Effective January 1, 2026.
- This bill requires districts to assist expelled students in locating opportunities to complete the requirements of their rehabilitation plans.
- Also prohibits districts from requiring students/families to pay for costs necessary to complete their rehabilitation plans.
- **Districts may not deny readmission to students who are unable to complete rehabilitation plan due to financial or transportation constraints or lack of opportunity.**



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Disability Protections in Student Discipline

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Special Education Discipline

Special education student discipline protections apply whenever a District makes a ***change in placement*** for:

- Special education students (504 or IEP); or
- Students for whom the District has “basis of knowledge,” ***before*** the conduct in question, that the student is a child with a disability.



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“Basis of Knowledge”



If a student is not yet eligible for special education, look for a basis of knowledge of student’s potential disability:

- *Parent expresses concern in writing.*
- *Parent requests evaluation.*
- *Teacher or other staff expresses specific concerns about pattern of behavior to supervisory personnel.*



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“Basis of Knowledge”



“Knowledge” does not exist when:

- The parent has refused to allow the District to assess the student;
- The parent refused special education services; or
- The District assessed the student and found that the student did not qualify for special education.



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Is There a “Basis of Knowledge”?

Parent v. Downey Unified School District; OAH 2025010823

Facts:

- An eight-year-old student participated in a general education group for developing friends.
- The student was described as smart, hard-working, and at/or above grade level in all subject areas.
- Student was reported to have made an inappropriate comment to another student that he was going to break a ruler and stab the other student with the sharp point.
- The parents allegedly received an email that the student could not return to class until a threat or risk assessment was completed.
- Although the student did not have a history of discipline, the parents alleged that the school district had a basis of knowledge that the student was a child with a disability.



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Is There a “Basis of Knowledge”?

Answer: No!

- ALJ disagreed and ruled in favor of the school district.
- The parents never indicated that the child needed special education and related services.
- There was no evidence of any request for assessment for special education and related services.
- Student was not entitled to a manifestation determination review hearing as there was no basis of knowledge student had a disability.



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(Student v. Downey Unified Sch. Dist. (OAH 2025) OAH Case No. 2025010823.)

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Is There a “Basis of Knowledge”?

Parent v. Morgan Hill Unified School District and Campbell Union School District; OAH 2023100744

Facts:

- The student had numerous instances of misconduct over the school year, such as initiating verbal shouting matches, engaging in physical fighting, and using inappropriate language and racial slurs.
- Teachers and site staff had reported recurring behavioral patterns, but the district did not consider the student as a child with a disability.
- The district ultimately suspended the child for longer than 10 days.
- The parents claimed the school district had a basis of knowledge of disability due to the student’s pattern of behavior.



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Is There a “Basis of Knowledge”?

Answer: Yes!

- ALJ agreed and ruled in favor of the student.
- A “pattern of behavior” was established by the staff, since they consistently documented and reported concerns about the student’s conduct and need for intervention.
- The same problematic behaviors kept occurring, establishing a consistent pattern.
- Even though the parents did not file a written assessment request, the staff reports were enough to establish the district had a basis of knowledge.



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*(Student v. Morgan Hill Unified Sch. Dist. & Campbell Union Sch. Dist.
(OAH 2023) OAH Case No. 2023100744.)*

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Change of Placement

A change of placement occurs if:

Removal for more than 10 consecutive school days, or

More than 10 cumulative days of short-term removals that constitute a pattern.



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Change of Placement

Removals constitute a pattern when:

- Removals total more than 10 school days in a school year;
- Behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
- Additional factors such as the length of time of the removal, the total amount of time of the removal, and the proximity of the removals to each other.

Err on the side of caution: EACH removal after 10 days is a change of placement.



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Manifestation Determinations

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Manifestation Determination

A manifestation determination is an evaluation of a child's misconduct to determine whether the conduct was a manifestation of the child's disability.



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Manifestation Determination

- Must be held within 10 school days of a decision to make a disciplinary change in placement.
- Recommended to have entire IEP team attend.
- **Determine:** (1) whether conduct was caused by, or had a direct and substantial relationship to, the child's disability, and (2) whether conduct was a result of failing to implement the IEP.



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Manifestation Determinations



If answer to both is **no**: you may proceed with discipline like a regular education student, but must:

- Provide educational services to enable the child to participate in general education curriculum and progress towards IEP goals.
- Provide, as appropriate, a functional behavior assessment and interventions to ensure behavior does not recur.



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Manifestation Determinations

If answer to either is **yes**:

- Expulsion process is typically stopped.
- Student's placement falls back to the IEP team.
- IEP team reviews areas of need and may change IEP to reflect additional supports, services, mental health (if applicable), psych services, etc.
- Revise behavior intervention plan, goals, etc.
- May consider a supplemental assessment for a change in placement.
- Student returns back to site.



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Discipline Timeline for Students with Disabilities

- **School day one:** Decision to Suspend – Issue Suspension Notice.
- **School day five of the suspension:** Recommendation for Expulsion and Extension of Suspension.
- **School day 10 of the suspension (or change in placement):** Hold a Manifestation Determination Meeting.
 - If the conduct is determined to be a manifestation of the student's disability – STOP HERE.
 - If the conduct is not determined to be a manifestation of the student's disability – PROCEED.
- **At least 10 calendar days before the expulsion hearing:** Notice of Hearing.
- **School day 30 of the suspension:** Hearing.
- **Within three days after hearing:** Panel Decision.
- **School day 40 of suspension:** Board Action.



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Wrap Up and Discussion

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Key Takeaways

Due process is a Constitutional requirement.

Investigations must be thorough. Remember to document everything.

Abiding by timelines is crucial.

Special education students have additional protections.

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Knowledge Check - Timelines

Incident:

On Monday, March 4th, Principal Coleman determines that Student Janine committed an act that could result in expulsion (brandishing a knife at another student). The incident occurred on school grounds during lunch.

Questions:

Within how many days must the expulsion hearing be held (assume no extensions)?

- Answer: _____

When should the written notice of hearing must be sent to parents?

- Answer: _____



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Knowledge Check – Fear Declarations

Incident:

During an expulsion hearing for gang-related threats, a student witness is afraid to testify because they fear retaliation from the expelled student's friends who are still at school.

Questions:

Can the witness's written statements be used instead of live testimony?

- Answer: _____

When can fear declarations be included in the evidence packet?

- Answer: _____



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Test Your Knowledge – Appeal Process

Incident:

Student Gregory was expelled by the District Board. His parents believe the hearing was unfair because a key witness was not allowed to testify, and they want to appeal.

Questions:

How long do the parents have to file an appeal?

- Answer: _____

What entity hears the appeal?

- Answer: _____



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Questions?

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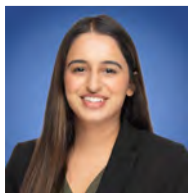
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