



# **California Compilation of School Discipline Laws and Regulations**

Prepared: March 20, 2015

## ***Introduction***

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

## ***Notes & Disclaimers***

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2015. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

*Prepared by:*

**Child Trends**

7315 Wisconsin Avenue

Suite 1200W

Bethesda, Maryland 20814

**EMT Associates, Inc.**

1024 Iron Point Road

Suite 100 #1300

Folsom, California 95630



**Table of Contents**

- California State Codes Cited..... 1**
- General Provisions ..... 5**
  - Authority to develop and establish rules of conduct..... 5
  - Scope ..... 7
  - Communication of policy ..... 9
- In-School Discipline..... 11**
  - Use of multi-tiered discipline approaches ..... 11
  - Teacher authority to remove students from classrooms ..... 11
  - Alternatives to suspension ..... 11
  - Use of corporal punishment ..... 14
  - Use of student and locker searches..... 14
  - Other in-school disciplinary approaches ..... 15
- Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements ..... 16**
  - Grounds for possible suspension or expulsion ..... 16
  - Grounds for mandatory suspension or expulsion ..... 21
  - Limitations, conditions or exclusions for use of suspension and expulsion ..... 21
  - Administrative procedures related to suspension and expulsion ..... 23
  - In-school suspension ..... 36
  - Return to school following removal ..... 38
  - Use of restraint and seclusion..... 40
  - Alternative placements ..... 44
- Disciplinary Approaches Addressing Specific Infractions and Conditions ..... 48**
  - Firearms (as required by the Gun-Free Schools Act) ..... 48
  - Other weapons ..... 52
  - Students with chronic disciplinary issues..... 55
  - Attendance and truancy ..... 59
  - Substance use..... 65
  - Bullying, harassment, or hazing ..... 68
  - Other special infractions or conditions ..... 86
- Prevention and Behavioral Interventions (Non-Punitive) ..... 93**
  - Prevention ..... 93
  - Behavioral interventions and student support services ..... 98
  - Professional development..... 101
- Monitoring and Accountability ..... 104**
  - Formal incident reporting of conduct violations..... 104
  - Parental notification..... 113
  - Reporting and referrals between schools and law enforcement..... 118
  - Disclosure of school records ..... 136
  - Data collection, review, and reporting of disciplinary policies and actions ..... 151

<b>School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers.....</b>	<b>161</b>
Authority and power to implement school arrest.....	161
Certification or training .....	161
MOUs, authorization, and/or funding .....	162
<b>State Education Agency Support .....</b>	<b>164</b>
State model policies and implementation support .....	164
Funding appropriations .....	170
<b>Other or Uncategorized .....</b>	<b>176</b>
Professional immunity or liability .....	176
Community input or involvement.....	177
Other or Uncategorized .....	184
<b>State-Sponsored, Publicly Available Websites or Other Resources on School Discipline .....</b>	<b>185</b>

## ***California State Codes Cited***

### **California Revised Laws**

#### **Education Code - EDC**

##### **Title 1. General Education Code Provisions [1 - 32500]**

##### **Division 1. General Education Code Provisions [1 - 32500]**

##### **Part 1. General Provisions [1 - 446]**

##### **Chapter 2. Educational Equity [200 - 283]**

##### **Article 1. Declaration of Purpose [200 - 201]]**

[200.](#)                      [201.](#)

##### **Article 2. Definitions [210 - 214]**

[210.2.](#)                      [212.](#)                      [212.3.](#)                      [212.6.](#)

[210.7.](#)                      [212.1.](#)                      [212.5.](#)

##### **Article 3. Prohibition of Discrimination [220 - 221.1]**

[220.](#)                      [221.1.](#)

##### **Article 5. Hate Violence Prevention Act [233 - 233.8]**

[233.](#)                      [233.5.](#)                      [233.8.](#)

##### **Article 5.5. Safe Place to Learn Act [234 -234.5]**

[234.](#)                      [234.1.](#)                      [234.2.](#)                      [234.3.](#)                      [234.5.](#)

##### **Part 19. Miscellaneous [32001 - 32454]**

##### **Chapter 2.5. Interagency School Safety Demonstration Act of 1985 [32260 - 32295.5]**

##### **Article 1. General Provisions [32260 - 32262]**

[32261.](#)

##### **Article 2. Conferences [32265 - 32265]**

[32265.](#)

##### **Article 5. School Safety Plans [32280 - 32289]**

[32280.](#)                      [32282.](#)                      [32283.](#)                      [32286.](#)

[32281.](#)                      [32282.1.](#)                      [32283.5.](#)                      [32288.](#)

**Title 2. Elementary and Secondary Education [33000 - 64100]**

**Division 2. State Administration [33000 - 33596]**

**Part 20. State Educational Agencies [33000 - 33596]**

**Chapter 1. State Board of Education [33000 - 33053]**

**Article 2. Powers and Duties [33030 - 33042]**

[33031.](#)

**Division 3. Local Administration [35000 - 45460]**

**Part 21. Local Educational Agencies [35000 - 35787]**

**Chapter 2. Governing Boards [35100 - 35401]**

**Article 3. Meetings [35140 - 35149]**

[35146.](#)

**Part 25. Employees [44000 - 45460]**

**Chapter 4. Employment—Certificated Employees [44800 - 45061.5]**

**Article 1. Rights and Duties [44800 - 44824]**

[44807.](#)

**Division 4. Instruction and Services [46000 - 64100]**

**Part 27. Pupils [48000 - 49704]**

**Chapter 2. Compulsory Education Law [48200 - 48361]**

**Article 1. Persons Included [48200 - 48208]**

[48200.](#)

[48201.](#)

[48202.](#)

**Article 5. Truants [48260 - 48273]**

[48260.](#)

[48261.](#)

[48263.5.](#)

[48264.5.](#)

[48267.](#)

[48273.](#)

[48260.5.](#)

[48262.](#)

[48263.6.](#)

[48265.](#)

[48268.](#)

[48260.6.](#)

[48263.](#)

[48264.](#)

[48266.](#)

[48269.](#)

**Chapter 6. Pupil Rights and Responsibilities**

**Article 1. Suspension and Expulsion [48900 – 48927]**

[48900.](#)

[48900.9.](#)

[48907.](#)

[48912.5.](#)

[48916.](#)

[48919.5.](#)

[48900.1.](#)

[48901.](#)

[48908.](#)

[48913.](#)

[48916.1.](#)

[48920.](#)

[48900.2.](#)

[48901.5.](#)

[48909.](#)

[48914.](#)

[48916.5.](#)

[48921.](#)

[48900.3.](#)

[48902.](#)

[48910.](#)

[48915.](#)

[48917.](#)

[48922.](#)

[48900.4.](#)

[48903.](#)

[48911.](#)

[48915.01.](#)

[48918.](#)

[48923.](#)

[48900.5.](#)

[48904.](#)

[48911.1.](#)

[48915.1.](#)

[48918.1.](#)

[48924.](#)

[48900.6.](#)

[48904.3.](#)

[48911.2.](#)

[48915.2.](#)

[48918.5.](#)

[48925.](#)

[48900.7.](#)

[48905.](#)

[48911.5.](#)

[48915.5.](#)

[48918.6.](#)

[48926.](#)

[48900.8.](#)

[48906.](#)

[48912.](#)

[48915.7.](#)

[48919.](#)

**Article 5. Prohibition of Corporal Punishment**

[49000.](#)            [49001.](#)

**Article 8. Searches by School Employees [49050 - 49051]**

[49050.](#)

**Chapter 6.5. Pupil Records [49060 - 49085]**

**Article 3. General Provisions [49062 - 49069.5]**

[49062.](#)            [49063.](#)

**Article 4. Rights of Parents [49069 - 49072]**

[49069.](#)            [49069.3.](#)            [49070.](#)            [49071.](#)            [49072.](#)

**Article 5. Rights of Parents Privacy of Pupil Records [49073 - 49079.7]**

[49073.](#)            [49075.](#)            [49076.5.](#)            [49079.5.](#)  
[49073.1.](#)            [49076.](#)            [49079.](#)

**Chapter 8. Pupil Safety [49300 - 49370]**

**Article 3. Injurious Objects [49330 - 49335]**

[49330.](#)            [49331.](#)            [49332.](#)            [49333.](#)            [49334.](#)            [49335.](#)

**Article 5. Community Policing and Mentoring for School Safety Pilot Program [49350 - 49355]**

[49350.](#)            [49351.](#)            [49353.](#)            [49355.](#)  
[49350.5.](#)            [49352.](#)            [49354.](#)

**Part 28. General Instructional Programs [51000 – 53303]**

**Chapter 2. Required Courses of Study [51200 - 51284]**

**Article 2. Course of Study, Grades 1 to 6 [51210 - 51212]**

[51210.5.](#)

**Article 3. Course of Study, Grades 7 to 12 [51220 - 51229]**

[51220.1.](#)            [51220.3.](#)            [51225.1.](#)            [51225.2.](#)

**Article 5. Drug Education [51260 - 51269]**

[51262.](#)            [51263.](#)            [51264.](#)            [51265.](#)            [51269.](#)

**Part 30. Special Education Programs [56000 - 56865]**

**Chapter 5.5. Behavioral Interventions [56520 - 56525]**

[56520.](#)            [56521.1.](#)            [56523.](#)            [56525.](#)  
[56521.](#)            [56521.2.](#)            [56524.](#)

## **Penal Code - PEN**

### **Part 1. Of Crimes and Punishment [25 - 680]**

#### **Title 8. Crimes against the Person [187 - 248]**

##### **Chapter 9. Assault and Battery [240 - 248]**

[243.2.](#)

[245.6.](#)

#### **Title 9. Of Crimes against the Person Involving Sexual Assault, and Crimes against Public Decency and Good Morals [261 - 368.5]**

##### **Chapter 2. Abandonment and Neglect of Children [270 - 273.75]**

[270.1.](#)

#### **Title 15. Miscellaneous Crimes [626 - 653.75]**

##### **Chapter 1. Schools [626 - 626.11]**

[626.](#)

[626.85.](#)

[626.9.](#)

[626.10.](#)

### **Part 2. Of Criminal Procedure [681 - 1620]**

#### **Title 3. Additional provisions regarding Criminal Procedure [777 - 883]**

##### **Chapter 4.5. Peace Officers [830 - 832.17]**

[832.2.](#)

[832.3.](#)

### **Part 4. Prevention of Crimes and Apprehension of Criminals [11006 - 14315]**

#### **Title 6. California Council on Criminal Justice [13800 - 13897.3]**

##### **Chapter 3.1. The California Gang, Crime, and Violence Prevention Partnership Program [13825.1 - 13825.6]**

[13825.4.](#)

##### **Chapter 7. Suppression of Drug Abuse in Schools [13860 - 13864]**

[13860.](#)

[13861.](#)

[13862.](#)

[13864.](#)

##### **Chapter 8. Information on Racial, Ethnic and Religious Crimes [13872- 13872.]**

[13872.](#)

### **Part 6. Control of Deadly Weapons [16000 - 34370]**

#### **Title 4. Firearms [23500 - 34370]**

##### **Division 10. Special Rules Relating to Particular Types of Firearms or Firearm Equipment [30210 – 33690]**

##### **Chapter 1. Ammunition [30210 - 30365]**

##### **Article 2. Other Restrictions Relating to Ammunition [30300 – 30340]**

[30310.](#)



## **California Regulations**

### **Title 5. Education**

#### **Division 1. California Department of Education**

##### **Chapter 1. General Provisions**

###### **Subchapter 5. Public Records**

- § 50. Access to public records of the California Department of Education
- § 51. Obtaining copies of public records

##### **Chapter 2. Pupils**

###### **Subchapter 1. General Provisions**

###### **Article 2. Duties of Pupils**

- § 300. Duties generally
- § 302. Pupils to be neat and clean on entering school
- § 303. Duty to remain at school
- § 305. Pupil responsible for care of property
- § 306. Explanation of absence

###### **Article 3. Privileges of Pupils**

- § 352. Detention during recess or noon intermission
- § 353. Detention after school

###### **Subchapter 2. Record of Pupils**

###### **Article 3. Individual Pupil Records**

- § 430. Definition
- § 431. Responsibilities of local governing boards
- § 432. Varieties of pupil records
- § 433. Maintenance and security of pupil records
- § 434. Access to pupil records
- § 435. Procedure for access to pupil records
- § 436. Rights of parents and adult pupils
- § 437. Retention and destruction of pupil records
- § 438. Transfer of records

###### **Subchapter 3. Health and Safety of Pupils**

###### **Article 7. Safe Schools Assessment Program**

- § 700. Definitions
- § 701. School crime and incident reporting procedures
- § 702. Guidelines for reporting and required documentation
- § 704. Certification of report
- § 705. Failure to submit or intentionally submitting misleading data

## **Chapter 5.1. Uniform Complaint Procedures**

### **Subchapter 1. Complaint Procedures**

#### **Article 1. Definitions**

§ 4600. General definitions

#### **Article 2. Purpose and Scope**

§ 4610. Purpose and scope

§ 4611. Referring complaint issues to other appropriate state or federal agencies

#### **Article 3. Local Educational Agency (Lea) Compliance**

§ 4620. LEA responsibilities

§ 4621. District policies and procedures

§ 4622. Notice

#### **Article 4. Local Complaint Procedures**

§ 4630. Filing a local complaint; Procedures, time lines

§ 4631. Responsibilities of the LEA

#### **Article 4.5. Appeal of Lea Decision**

§ 4632. Appeal of LEA decision – Grounds

§ 4633. Appeal of LEA decision

#### **Article 5. State Complaint Procedures**

§ 4640. Filing a state complaint that has not first been filed at the Local Educational Agency (LEA); Time lines, notice, appeal rights

#### **Article 6. Direct State Intervention**

§ 4650. Basis of direct state intervention

§ 4651. Notification

#### **Article 7. State Investigation Procedures**

§ 4660. Department resolution procedures

§ 4662. Investigation timeline

§ 4663. Department investigation procedures

§ 4664. Department investigation report

§ 4665. Discretionary reconsideration of department investigation report

#### **Article 8. Enforcement -State Procedures to Effect Compliance**

§ 4670. Enforcement

## **Chapter 5.3. Nondiscrimination and Educational Equity**

### **Subchapter 1. Nondiscrimination in Elementary and Secondary Educational Programs Receiving State or Federal Financial Assistance**

#### **Article 2.5. Sexual Harassment**

§ 4915. General prohibitions

§ 4916. Sexual harassment definitions

§ 4917. Notification requirements

## **Article 8. Complaint Process Safeguards**

- [§ 4963.](#) Prohibitions
- [§ 4964.](#) Confidentiality
- [§ 4965.](#) Disciplinary action

## **Chapter 11. Special Programs**

### **Subchapter 21.5. School Community Violence Prevention Program**

- [§ 11987.](#) Purpose
- [§ 11987.7.](#) School safety and violence prevention training grant

### **Subchapter 23. Defining Persistently Dangerous Public Elementary and Secondary Schools**

- [§ 11992.](#) Provisions
- [§ 11993.](#) Definitions
- [§ 11994.](#) Data collection

## **General Provisions**

### **Authority to develop and establish rules of conduct**

#### **LAWS**

##### **EDN 221.1**

The State Board of Education shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act, to implement this chapter.

##### **EDN 32280.**

It is the intent of the Legislature that all California public schools, in kindergarten, and grades 1 to 12, inclusive, operated by school districts, in cooperation with local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, and other persons who may be interested in the prevention of campus crime and violence, develop a comprehensive school safety plan that addresses the safety concerns identified through a systematic planning process. For the purposes of this section, law enforcement agencies include local police departments, county sheriffs' offices, school district police or security departments, probation departments, and district attorneys' offices. For purposes of this section, a "safety plan" means a plan to develop strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on the school campus.

##### **EDN 32281.**

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b) (1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency in the writing and development of the comprehensive school safety plan.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) Nothing in this article shall limit or take away the authority of school boards as guaranteed under this code.

(d) (1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

(2) As used in this article, "small school district" means a school district that has fewer than 2,501 units of average daily attendance at the beginning of each fiscal year.

(f) (1) Notwithstanding subdivision (b), a school district or county office of education may, in consultation with law enforcement officials, elect to not have its schoolsite council develop and write those portions of its comprehensive school safety plan that include tactical responses to criminal incidents that may result in death or serious bodily injury at the schoolsite. The portions of a school safety plan that include tactical responses to criminal incidents may be developed by administrators of the school district or county office of education in consultation with law enforcement officials and with a representative of an exclusive bargaining unit of employees of that school district or county office of education, if he or she chooses to participate. The school district or county office of education may elect not to disclose those portions of the comprehensive school safety plan that include tactical responses to criminal incidents.

(2) As used in this article, "tactical responses to criminal incidents" means steps taken to safeguard pupils and staff, to secure the affected school premises, and to apprehend the criminal perpetrator or perpetrators.

(3) Nothing in this subdivision precludes the governing board of a school district or county office of education from conferring in a closed session with law enforcement officials pursuant to Section 54957 of the Government Code to approve a tactical response plan developed in consultation with those officials pursuant to this subdivision. Any vote to approve the tactical response plan shall be announced in open session following the closed session.

(4) Nothing in this subdivision shall be construed to reduce or eliminate the requirements of Section 32282.

#### **EDN 33031.**

The board shall adopt rules and regulations not inconsistent with the laws of this state (a) for its own government, (b) for the government of its appointees and employees, (c) for the government of the day and evening elementary schools, the day and evening secondary schools, and the technical and vocational schools of the state, and (d) for the government of other schools, excepting the University of California, the California State University, and the California Community Colleges, as may receive in whole or in part financial support from the state.

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

#### **EDN 48904.**

(a) (1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000), adjusted annually for inflation. The parent or guardian shall be liable also for the amount of any reward not exceeding ten thousand dollars (\$10,000), adjusted annually for inflation, paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the school district or private school authorized to make the demand.

(b) (3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

**EDN 48914.**

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

**EDN 48918.**

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. [...]

**EDN 48926.**

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

**EDN 49335.**

On or before April 1, 2001, the Superintendent of Public Instruction shall adopt a system that will shield the identity and provide protection to pupils who report the presence of injurious objects on school campuses that offer instruction in kindergarten and any of grades 1 to 12, inclusive.

**REGULATIONS**

No relevant regulations found.

**Scope**

**LAWS**

**EDN 44807.**

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. [...]

**EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

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

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

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

**EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- (A) Causing serious physical injury to another person, except in self-defense.
- (B) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:
  - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
  - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
- (D) Robbery or extortion.
- (E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

- (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 pupil causes a continuing danger to the physical safety of the pupil or others.

**EDN 56521.**

(a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

**REGULATIONS**

**5 CCR § 4916. Sexual harassment definitions.**

(e) "Educational environment" includes, but is not limited to, the following:

- (1) The campus or school grounds of the local agency.
- (2) Properties controlled or owned by the local agency.
- (3) Off-campus, if such activity is sponsored by the local agency, or is conducted by organizations sponsored by or under the jurisdiction of the local agency.

**Communication of policy**

**LAWS**

**EDN 234.2.**

The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, and bullying is posted.

**EDN 32288.**

(a) In order to ensure compliance with this article, each school shall forward its comprehensive school safety plan to the school district or county office of education for approval.

(b) (1) Before adopting its comprehensive school safety plan, the schoolsite council or school safety planning committee shall hold a public meeting at the schoolsite in order to allow members of the public the opportunity to express an opinion about the school safety plan.

(2) The schoolsite council or school safety planning committee shall notify, in writing, the following persons and entities, if available, of the public meeting:

- (A) The local mayor.
- (B) A representative of the local school employee organization.
- (C) A representative of each parent organization at the schoolsite, including the parent teacher association and parent teacher clubs.
- (D) A representative of each teacher organization at the schoolsite.
- (E) A representative of the student body government.
- (F) All persons who have indicated they want to be notified.



(3) The schoolsite council or school safety planning committee is encouraged to notify, in writing, the following persons and entities, if available, of the public meeting:

- (A) A representative of the local churches.
- (B) Local civic leaders.
- (C) Local business organizations.

(c) In order to ensure compliance with this article, each school district or county office of education shall annually notify the State Department of Education by October 15 of any schools that have not complied with Section 32281.

**EDN 33031.**

The rules and regulations adopted shall be published for distribution as soon as practicable after adoption.

**EDN 48900.1.**

(a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a schoolday in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

**REGULATIONS**

**5 CCR § 4917. Notification requirements.**

Local agencies are required to notify students, employees, and parents of their written policy prohibiting sexual harassment pursuant to Education Code sections 231.5 and 48980(h), and in accordance with Education Code section 48985. These policies shall include information as to where to obtain specific procedures for reporting charges of sexual harassment and available remedies.

## ***In-School Discipline***

### **Use of multi-tiered discipline approaches**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

### **Teacher authority to remove students from classrooms**

#### **LAWS**

##### **EDN 48910.**

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

#### **REGULATIONS**

No relevant regulations found.

### **Alternatives to suspension**

#### **LAWS**

##### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

**EDN 48900.5**

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

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

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
- (4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- (5) Enrollment in a program for teaching prosocial behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
- (8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- (9) Any of the alternatives described in Section 48900.6.

**EDN 48900.6.**

As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

**EDN 48911.1.**

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for

the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the school site for the period of suspension in a separate classroom, building, or site for pupils under suspension.

#### **EDN 48911.2.**

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

#### **EDN 48917.**

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

#### **REGULATIONS**

No relevant regulations found.

## Use of corporal punishment

### LAWS

#### EDN 44807.

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

#### EDN 49000.

The Legislature finds and declares that the protection against corporal punishment, which extends to other citizens in other walks of life, should include children while they are under the control of the public schools. Children of school age are at the most vulnerable and impressionable period of their lives and it is wholly reasonable that the safeguards to the integrity and sanctity of their bodies should be, at this tender age, at least equal to that afforded to other citizens.

#### EDN 49001.

(a) For the purposes of this section "corporal punishment" means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

### REGULATIONS

No relevant regulations found.

## Use of student and locker searches

### LAWS

#### EDN 49050.

No school employee shall conduct a search that involves:

- (a) Conducting a body cavity search of a pupil manually or with an instrument.
- (b) Removing or arranging any or all of the clothing of a pupil to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the pupil.

**REGULATIONS**

No relevant regulations found.

**Other in-school disciplinary approaches****LAWS**

No relevant laws found.

**REGULATIONS**

No relevant regulations found.

## ***Out-of-School and Exclusionary Discipline: Suspensions, Expulsion, Restraint and Seclusion, and Alternative Placements***

### **Grounds for possible suspension or expulsion**

#### **LAWS**

##### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

- (a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.
- (2) Willfully used force or violence upon the person of another, except in self-defense.
- (b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.
- (c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.
- (d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
- (e) Committed or attempted to commit robbery or extortion.
- (f) Caused or attempted to cause damage to school property or private property.
- (g) Stole or attempted to steal school property or private property.
- (h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.
- (i) Committed an obscene act or engaged in habitual profanity or vulgarity.
- (j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
- (k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.
- (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.

- (l) Knowingly received stolen school property or private property.
- (m) Possessed an imitation firearm. As used in this section, “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.
- (n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.
- (o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.
- (p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
- (q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil 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 pupil. For purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.
- (r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:
  - (1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:
    - (A) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.
    - (B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.
    - (C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.
    - (D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.
  - (2) (A) “Electronic act” means the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:
    - (i) A message, text, sound, or image.
    - (ii) A post on a social network Internet Web site, including, but not limited to:
      - (I) Posting to or creating a burn page. “Burn page” means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).
      - (II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.



(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). "False profile" means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.

(3) "Reasonable pupil" means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

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

(1) While on school grounds.

(2) While going to or coming from school.

(3) During the lunch period whether on or off the campus.

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

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

(u) As used in this section, "school property" includes, but is not limited to, electronic files and databases.

#### **EDN 48900.2.**

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

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

#### **EDN 48900.3.**

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

#### **EDN 48900.4.**

In addition to the grounds specified in Sections 48900 and 48900.2, a pupil enrolled in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the

principal of the school in which the pupil is enrolled determines that the pupil has intentionally engaged in harassment, threats, or intimidation, directed against school district personnel or pupils, that is sufficiently severe or pervasive to have the actual and reasonably expected effect of materially disrupting classwork, creating substantial disorder, and invading the rights of either school personnel or pupils by creating an intimidating or hostile educational environment.

**EDN 48900.7**

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

**EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- (A) Causing serious physical injury to another person, except in self-defense.
- (B) Possession of any knife or other dangerous object of no reasonable use to the pupil.
- (C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:
  - (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
  - (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.
- (D) Robbery or extortion.
- (E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.
- (c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:
- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.
- (e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:
- (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 pupil causes a continuing danger to the physical safety of the pupil or others.
- (g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.
- (h) As used in this section, the term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

**EDN 48915.7.**

It is the intent of the Legislature that where community school opportunities exist, the principal shall recommend for expulsion, and the governing board shall expel, any pupil who is found to be in possession of a firearm at school or at a school activity off school grounds and that the governing board shall request the county board of education to enroll the pupil in a community school.

## REGULATIONS

### **5 CCR § 4965. Disciplinary action.**

Harassment on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability is a form of discrimination, and as such, may result in disciplinary or other action taken by the local agency. In the case of an employee, such disciplinary action may include termination. For students in Grades K-12, the disciplinary consequences shall depend on the ages of the students and the factual circumstances of the incident(s).

## Grounds for mandatory suspension or expulsion

### LAWS

#### **EDN 48915.**

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

- (1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.
- (2) Brandishing a knife at another person.
- (3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.
- (4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.
- (5) Possession of an explosive.

### REGULATIONS

#### **5 CCR § 305. Pupil responsible for care of property.**

A pupil who defaces, damages, or destroys any school property or willfully or negligently injures another pupil or school employee is liable to suspension or expulsion, according to the nature of the offense.

## Limitations, conditions or exclusions for use of suspension and expulsion

### LAWS

#### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(t) A pupil who aids or abets, as defined in Section 31 of the Penal Code, the infliction or attempted infliction of physical injury to another person may be subject to suspension, but not expulsion, pursuant to this section, except that a pupil who has been adjudged by a juvenile court to have committed, as an aider and abettor, a crime of physical violence in which the victim suffered great bodily injury or serious bodily injury shall be subject to discipline pursuant to subdivision (a).

**EDN 48900.2.**

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

**EDN 48903.**

(a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

**EDN 48911.**

(a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

**EDN 48911.5.**

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.

**EDN 48912.5.**

The governing board of a school district may suspend a pupil enrolled in a continuation school or class for a period not longer than the remainder of the semester if any of the acts enumerated in Section 48900 occurred. The suspension shall meet the requirements of Section 48915.

**EDN 48915.01.**

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

### **EDN 48915.5.**

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

## **REGULATIONS**

### **5 CCR § 352. Detention during recess or noon intermission.**

A pupil shall not be required to remain in school during the intermission at noon, or during any recess.

### **5 CCR § 353. Detention after school.**

A pupil shall not be detained in school for disciplinary or other reasons for more than one hour after the close of the maximum school day, except as otherwise provided in Section 307.

## **Administrative procedures related to suspension and expulsion**

## **LAWS**

### **EDN 35146.**

Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public

hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of this code. Before calling such closed session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his or her parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such closed session. Unless the pupil, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in closed session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

**EDN 48201.**

(a) Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

(b) (1) Upon a pupil's transfer from one school district to another, the school district into which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

**EDN 48911.**

(a) The principal of the school, the principal's designee, or the district superintendent of schools may suspend a pupil from the school for any of the reasons enumerated in Section 48900, and pursuant to Section 48900.5, for no more than five consecutive schooldays.

(b) Suspension by the principal, the principal's designee, or the district superintendent of schools shall be preceded by an informal conference conducted by the principal, the principal's designee, or the district superintendent of schools between the pupil and, whenever practicable, the teacher, supervisor, or school employee who referred the pupil to the principal, the principal's designee, or the district superintendent of schools. At the conference, the pupil shall be informed of the reason for the disciplinary action and the evidence against him or her, and shall be given the opportunity to present his or her version and evidence in his or her defense.

(c) A principal, the principal's designee, or the district superintendent of schools may suspend a pupil without affording the pupil an opportunity for a conference only if the principal, the principal's designee, or the district superintendent of schools determines that an emergency situation exists. "Emergency situation," as used in this article, means a situation determined by the principal, the principal's designee, or the district superintendent of schools to constitute a clear and present danger to the life, safety, or health of pupils or school personnel. If a pupil is suspended without a conference before suspension, both the parent and the pupil shall be notified of the pupil's right to a conference and the pupil's right to return

to school for the purpose of a conference. The conference shall be held within two schooldays, unless the pupil waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the pupil is physically able to return to school for the conference.

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

(f) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

(g) In a case where expulsion from a school or suspension for the balance of the semester from continuation school is being processed by the governing board of the school district, the district superintendent of schools, or other person designated by the district superintendent of schools in writing, may extend the suspension until the governing board of the school district has rendered a decision in the action. However, an extension may be granted only if the district superintendent of schools or the district superintendent's designee has determined, following a meeting in which the pupil and the pupil's parent or guardian are invited to participate, that the presence of the pupil at the school or in an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. If the pupil is a foster child, as defined in Section 48853.5, the district superintendent of schools or the district superintendent's designee, including, but not limited to, the educational liaison for the school district, shall also invite the pupil's attorney and an appropriate representative of the county child welfare agency to participate in the meeting. If the pupil or the pupil's parent or guardian has requested a meeting to challenge the original suspension pursuant to Section 48914, the purpose of the meeting shall be to decide upon the extension of the suspension order under this section and may be held in conjunction with the initial meeting on the merits of the suspension.

(h) For purposes of this section, a "principal's designee" is one or more administrators at the schoolsite specifically designated by the principal, in writing, to assist with disciplinary procedures.

In the event that there is not an administrator in addition to the principal at the schoolsite, a certificated person at the schoolsite may be specifically designated by the principal, in writing, as a "principal's designee," to assist with disciplinary procedures. The principal may designate only one person at a time as the principal's primary designee for the school year.

An additional person meeting the requirements of this subdivision may be designated by the principal, in writing, to act for purposes of this article when both the principal and the principal's primary designee are absent from the schoolsite. The name of the person, and the names of any person or persons designated as "principal's designee," shall be on file in the principal's office.

This section is not an exception to, nor does it place any limitation on, Section 48903.

#### **EDN 48911.5.**

The site principal of a contracting nonpublic, nonsectarian school providing services to individuals with exceptional needs under Sections 56365 and 56366, shall have the same duties and responsibilities with respect to the suspension of pupils with previously identified exceptional needs prescribed for the suspension of pupils under Section 48911.



**EDN 48912.**

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

**EDN 48915.01.**

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

**EDN 48915.1.**

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been

made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

#### **EDN 48916.**

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order,

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program.

#### **EDN 48917.**

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

**EDN 48918.**

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

(a) (1) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board of the school district.

(2) Within 10 schooldays after the conclusion of the hearing, the governing board of the school district shall decide whether to expel the pupil, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the governing board of the school district does not meet on a weekly basis, the governing board of the school district shall decide whether to expel the pupil within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent of schools, unless the pupil requests in writing that the decision be postponed.

(3) If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable during the regular school year, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. If compliance by the governing board of the school district with the time requirements for the conducting of an expulsion hearing under this subdivision is impractical due to a summer recess of governing board meetings of more than two weeks, the days during the recess period shall not be counted as schooldays in meeting the time requirements. The days not counted as schooldays in meeting the time requirements for an expulsion hearing because of a summer recess of governing board meetings shall not exceed 20 schooldays, as defined in subdivision (c) of Section 48925, and unless the pupil requests in writing that the expulsion hearing be postponed, the hearing shall be held not later than 20 calendar days before the first day of school for the school year. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days before the date of the hearing. The notice shall include all of the following:

- (1) The date and place of the hearing.
  - (2) A statement of the specific facts and charges upon which the proposed expulsion is based.
  - (3) A copy of the disciplinary rules of the school district that relate to the alleged violation.
  - (4) A notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1.
  - (5) Notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or to be represented by legal counsel or by a nonattorney adviser, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses. In a hearing in which a pupil is alleged to have committed or attempted to commit a sexual assault as specified in subdivision (n) of Section 48900 or to have committed a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall be given five days' notice before being called to testify, and 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 or her testimony. Before a complaining witness testifies, support persons shall be admonished that the hearing is confidential. This subdivision shall not preclude the person presiding over an expulsion hearing from removing a support person whom the presiding person finds is disrupting the hearing. If one or both of the support persons is also a witness, the provisions of Section 868.5 of the Penal Code shall be followed for the hearing. This section does not require a pupil or the pupil's parent or guardian to be represented by legal counsel or by a nonattorney adviser at the hearing.
    - (A) For purposes of this section, "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.
    - (B) For purposes of this section, "nonattorney adviser" 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 pupil or pupil's parent or guardian to provide assistance at the hearing.
- (c) (1) Notwithstanding Section 35145, the governing board of the school district shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public, unless the pupil requests, in writing, at least five days before the date of the hearing, that the hearing be conducted at a public meeting. Regardless of whether the expulsion hearing is conducted in a closed or public session, the governing board of the school district may meet in closed session for the purpose of deliberating and determining whether the pupil should be expelled.
- (2) If the governing board of the school district or the hearing officer or administrative panel appointed under subdivision (d) to conduct the hearing admits any other person to a closed deliberation session, the parent or guardian of the pupil, the pupil, and the counsel of the pupil also shall be allowed to attend the closed deliberations.
  - (3) If the hearing is to be conducted at a public meeting, and there is a charge of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, a complaining witness shall have the right to have his or her testimony heard in a session closed to the public when testifying at a public meeting would threaten serious psychological harm to the complaining witness and there are no alternative procedures to avoid the threatened harm, including, but not limited to, videotaped deposition or contemporaneous examination in another place communicated to the hearing room by means of closed-circuit television.
- (d) Instead of conducting an expulsion hearing itself, the governing board of the school district may contract with the county hearing officer, or with the Office of Administrative Hearings pursuant to

Chapter 14 (commencing with Section 27720) of Part 3 of Division 2 of Title 3 of the Government Code and Section 35207 of this code, for a hearing officer to conduct the hearing. The governing board of the school district may also appoint an impartial administrative panel of three or more certificated persons, none of whom is a member of the governing board of the school district or employed on the staff of the school in which the pupil is enrolled. The hearing shall be conducted in accordance with all of the procedures established under this section.

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board of the school district. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to the classroom instructional program from which the expulsion referral was made, unless the parent, guardian, or responsible adult of the pupil requests another school placement in writing. Before the placement decision is made by the parent, guardian, or responsible adult, the superintendent of schools or the superintendent's designee shall consult with school district personnel, including the pupil's teachers, and the parent, guardian, or responsible adult regarding any other school placement options for the pupil in addition to the option to return to his or her classroom instructional program from which the expulsion referral was made. If the hearing officer or administrative panel finds that the pupil committed any of the acts specified in subdivision (c) of Section 48915, but does not recommend expulsion, the pupil shall be immediately reinstated and may be referred to his or her prior school or another comprehensive school, or, pursuant to the procedures set forth in Section 48432.5, a continuation school of the school district. The decision not to recommend expulsion shall be final.

(f) (1) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board of the school district. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board of the school district accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board of the school district may order.

(2) The decision of the governing board of the school district to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board of the school district or the hearing officer or administrative panel may, upon a finding that good cause exists, determine that the disclosure of either the identity of a witness or the testimony of that witness at the hearing, or both, would subject the witness to an unreasonable risk of psychological or physical harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations that shall be examined only by the governing board of the school district or the hearing officer or administrative panel. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

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

(h) (1) Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. A decision of the governing board of the school district to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(2) In hearings that include an allegation of committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or to commit a sexual battery as defined in subdivision (n) of Section 48900, evidence of specific instances, of a complaining witness' prior sexual conduct is to be presumed inadmissible and shall not be heard absent a determination by the person conducting the hearing that extraordinary circumstances exist requiring the evidence be heard. Before the person conducting the hearing makes the determination on whether extraordinary circumstances exist requiring that specific instances of a complaining witness' prior sexual conduct be heard, the complaining witness shall be provided notice and an opportunity to present opposition to the introduction of the evidence. In the hearing on the admissibility of the evidence, the complaining witness shall be entitled to be represented by a parent, guardian, legal counsel, or other support person. Reputation or opinion evidence regarding the sexual behavior of the complaining witness is not admissible for any purpose.

(i) (1) Before the hearing has commenced, the governing board of the school district may issue subpoenas at the request of either the superintendent of schools or the superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the governing board of the school district or the hearing officer or administrative panel may, upon request of either the county superintendent of schools or the superintendent's designee or the pupil, issue subpoenas. All subpoenas shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Section 11455.20 of the Government Code.

(2) Any objection raised by the superintendent of schools or the superintendent's designee or the pupil to the issuance of subpoenas may be considered by the governing board of the school district in closed session, or in open session, if so requested by the pupil before the meeting. Any decision by the governing board of the school district in response to an objection to the issuance of subpoenas shall be final and binding.

(3) If the governing board of the school district, hearing officer, or administrative panel determines, in accordance with subdivision (f), that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as provided for in subdivision (f).

(4) Service of process shall be extended to all parts of the state and shall be served in accordance with Section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision of the state, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board of the school district or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board of the school district in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by all of the following:

(1) Notice of the right to appeal the expulsion to the county board of education.

(2) Notice of the education alternative placement to be provided to the pupil during the time of expulsion.

(3) Notice of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that school district of the pupil's expulsion.

(k) (1) The governing board of the school district shall maintain a record of each expulsion, including the cause for the expulsion. Records of expulsions shall be nonprivileged, disclosable public records.

(2) The expulsion order and the causes for the expulsion shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

**EDN 48918.1.**

(a) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

**EDN 48918.5.**

In expulsion hearings involving allegations brought pursuant to subdivision (n) of Section 48900, the governing board of each school district shall establish rules and regulations governing procedures. The procedures shall include, but are not limited to, all of the following:

(a) At the time that the expulsion hearing is recommended, the complaining witness shall be provided with a copy of the applicable disciplinary rules and advised of his or her right to: (1) receive five days' notice of the complaining witness's scheduled testimony at the hearing, (2) have up to two adult support persons of his or her choosing, present in the hearing at the time he or she testifies; and (3) to have the hearing closed during the time they testify pursuant to subdivision (c) of Section 48918.

(b) An expulsion hearing may be postponed for one schoolday in order to accommodate the special physical, mental, or emotional needs of a pupil who is the complaining witness where the allegations arise under subdivision (n) of Section 48900.

(c) The district shall provide a nonthreatening environment for a complaining witness in order to better enable them to speak freely and accurately of the experiences that are the subject of the expulsion hearing, and to prevent discouragement of complaints. Each school district shall provide a room separate from the hearing room for the use of the complaining witness prior to and during breaks in testimony. In the discretion of the person conducting the hearing, the complaining witness shall be allowed reasonable periods of relief from examination and cross-examination during which he or she may leave the hearing room. The person conducting the hearing may arrange the seating within the hearing room of those present in order to facilitate a less intimidating environment for the complaining witness. The person conducting the hearing may limit the time for taking the testimony of a complaining witness to the hours he or she is normally in school, if there is no good cause to take the testimony during other hours. The person conducting the hearing may permit one of the complaining witness's support persons to accompany him or her to the witness stand.

(d) Whenever any allegation is made of conduct violative of subdivision (n) of Section 48900, complaining witnesses and accused pupils are to be advised immediately to refrain from personal or telephonic contact with each other during the pendency of any expulsion process.

#### **EDN 48918.6.**

In addition to any other immunity that may exist, any testimony provided by a pupil witness in an expulsion hearing conducted pursuant to this article is expressly deemed to be a communication protected by subdivision (b) of Section 47 of the Civil Code.

#### **EDN 48919.**

If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education, or in a class 1 or class 2 county a hearing officer or impartial administrative panel, shall hold the hearing within 20 schooldays following the filing of a formal request under this section. If the county board of education hears the appeal without a hearing conducted pursuant to Section 48919.5, then the board shall render a decision within three schooldays of the hearing conducted pursuant to Section 48920, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. If the county board of education in a class 1 or class 2 county elects to use the procedures in Section 48919.5, then the board shall adopt rules and regulations establishing procedures for expulsion appeals conducted under Section 48919.5. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a written request for a copy of the written transcripts and supporting documents from the school district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcripts, supporting documents, and records within 10 schooldays following the pupil's written request. Upon receipt of the records, the pupil shall immediately file suitable copies of these records with the county board of education.



**EDN 48919.5.**

(a) A county board of education in a class 1 or class 2 county may have a hearing officer pursuant to Chapter 14 (commencing with Section 27720) of Part 3 of Title 3 of the Government Code, or an impartial administrative panel of three or more certificated persons appointed by the county board of education, hear appeals filed pursuant to Section 48919. The members of the impartial administrative panel shall not be members of the governing board of the school district nor employees of the school district, from which the pupil filing the appeal was expelled. Neither the hearing officer, nor any member of the administrative panel, hearing a pupil's appeal shall have been the hearing officer or a member of the administrative panel that conducted the pupil's expulsion hearing.

(b) A hearing conducted pursuant to this section shall not issue a final order of the county board. The hearing officer or impartial administrative panel shall prepare a recommended decision, including any findings or conclusions required for that decision, and shall submit that recommendation and the record to the county board of education within three schooldays of hearing the appeal.

(c) Sections 48919, 48920, 48921, 48922, 48923, and 48925 are applicable to a hearing conducted pursuant to this section.

(d) Within 10 schooldays of receiving the recommended decision and record from the hearing officer or the impartial administrative panel, the county board of education shall review the recommended decision and record and render a final order of the board.

(e) For purposes of this article, the following definitions shall apply:

- (1) "Countywide ADA" means the aggregate number of annual units of regular average daily attendance for the fiscal year in all school districts within the county.
- (2) "Class 1 county" means a county with 1994/95 countywide ADA of more than 500,000.
- (3) "Class 2 county" means a county with 1994/95 countywide ADA of at least 180,000 but less than 500,000.

**EDN 48920.**

Notwithstanding the provisions of Section 54950 of the Government Code and Section 35145 of this code, the county board of education shall hear an appeal of an expulsion order in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that the hearing be conducted in a public meeting. Upon the timely submission of a request for a public meeting, the county board of education shall be required to honor the request. Whether the hearing is conducted in closed or public session, the county board may meet in closed session for the purpose of deliberations. If the county board admits any representative of the pupil or the school district, the board shall, at the same time, admit representatives from the opposing party.

**EDN 48921.**

The county board of education shall determine the appeal from a pupil expulsion upon the record of the hearing before the district governing board, together with such applicable documentation or regulations as may be ordered. No evidence other than that contained in the record of the proceedings of the school board may be heard unless a de novo proceeding is granted as provided in Section 48923.

It shall be the responsibility of the pupil to submit a written transcription for review by the county board. The cost of the transcript shall be borne by the pupil except in either of the following situations:

- (1) Where the pupil's parent or guardian certifies to the school district that he or she cannot reasonably afford the cost of the transcript because of limited income or exceptional necessary expenses, or both.
- (2) In a case in which the county board reverses the decision of the local governing board, the county board shall require that the local board reimburse the pupil for the cost of such transcription.

**EDN 48922.**

(a) The review by the county board of education of the decision of the governing board shall be limited to the following questions:

- (1) Whether the governing board acted without or in excess of its jurisdiction.
- (2) Whether there was a fair hearing before the governing board.
- (3) Whether there was a prejudicial abuse of discretion 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 governing board.

(b) As used in this section, a proceeding without or in excess of jurisdiction includes, but is not limited to, a situation where an expulsion hearing is not commenced within the time periods prescribed by this article, a situation where an expulsion order is not based upon the acts enumerated in Section 48900, or a situation involving acts not related to school activity or attendance.

(c) For purposes of this section, an abuse of discretion is established in any of the following situations:

- (1) If school officials have not met the procedural requirements of this article.
- (2) If the decision to expel a pupil is not supported by the findings prescribed by Section 48915.
- (3) If the findings are not supported by the evidence.

A county board of education may not reverse the decision of a governing board to expel a pupil based upon a finding of an abuse of discretion unless the county board of education also determines that the abuse of discretion was prejudicial.

**EDN 48923.**

The decision of the county board shall be limited as follows:

(a) If 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 governing board, it may do either of the following:

- (1) Remand the matter to the governing board for reconsideration and may in addition order the pupil reinstated pending the reconsideration.
- (2) Grant a hearing de novo upon reasonable notice thereof to the pupil and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

(b) If the county board determines that the decision of the governing board is not supported by the findings required to be made by Section 48915, but evidence supporting the required findings exists in the record of the proceedings, the county board shall remand the matter to the governing board for adoption of the required findings. This remand for the adoption and inclusion of the required findings shall not result in an additional hearing pursuant to Section 48918, except that final action to expel the pupil based on the revised findings of fact shall meet all requirements of subdivisions (j) and (k) of Section 48918.

(c) In all other cases, the county board shall enter an order either affirming or reversing the decision of the governing board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local 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.

#### **EDN 48924.**

The decision of the county board of education shall be final and binding upon the pupil and upon the governing board of the school district. The pupil 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.

#### **EDN 48925.**

As used in this article:

- (a) "Day" means a calendar day unless otherwise specifically provided.
- (b) "Expulsion" means removal of a pupil from (1) the immediate supervision and control, or (2) the general supervision, of school personnel, as those terms are used in Section 46300.
- (c) "School day" means a day upon which the schools of the district are in session or weekdays during the summer recess.
- (d) "Suspension" means removal of a pupil from ongoing instruction for adjustment purposes. However, "suspension" does not mean any of the following:
  - (1) Reassignment to another education program or class at the same school where the pupil will receive continuing instruction for the length of day prescribed by the governing board for pupils of the same grade level.
  - (2) Referral to a certificated employee designated by the principal to advise pupils.
  - (3) Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the pupil to the principal or the principal's designee as provided in Section 48910. Removal from a particular class shall not occur more than once every five schooldays.
- (e) "Pupil" includes a pupil's parent or guardian or legal counsel.

#### **REGULATIONS**

No relevant regulations found.

### **In-school suspension**

#### **LAWS**

#### **EDN 48910.**

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply

only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

**EDN 48911.1.**

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(b) Pupils assigned to a supervised suspension classroom shall be separated from other pupils at the schoolsite for the period of suspension in a separate classroom, building, or site for pupils under suspension.

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

(1) The supervised suspension classroom is staffed as otherwise provided by law.

(2) Each pupil has access to appropriate counseling services.

(3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.

(4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

(f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

**EDN 48911.2.**

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(1) Implement the supervised suspension program described in Section 48911.1.

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

**REGULATIONS**

No relevant regulations found.

## Return to school following removal

### LAWS

#### **EDN 48913.**

The teacher of any class from which a pupil is suspended may require the suspended pupil to complete any assignments and tests missed during the suspension.

#### **EDN 48915.1.**

(a) If the governing board of a school district receives a request from an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for enrollment in a school maintained by the school district, the board shall hold a hearing to determine whether that individual poses a continuing danger either to the pupils or employees of the school district. The hearing and notice shall be conducted in accordance with the rules and regulations governing procedures for the expulsion of pupils as described in Section 48918. A school district may request information from another school district regarding a recommendation for expulsion or the expulsion of an applicant for enrollment. The school district receiving the request shall respond to the request with all deliberate speed but shall respond no later than five working days from the date of the receipt of the request.

(b) If a pupil has been expelled from his or her previous school for an act other than those listed in subdivision (a) or (c) of Section 48915, the parent, guardian, or pupil, if the pupil is emancipated or otherwise legally of age, shall, upon enrollment, inform the receiving school district of his or her status with the previous school district. If this information is not provided to the school district and the school district later determines the pupil was expelled from the previous school, the lack of compliance shall be recorded and discussed in the hearing required pursuant to subdivision (a).

(c) The governing board of a school district may make a determination to deny enrollment to an individual who has been expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915, for the remainder of the expulsion period after a determination has been made, pursuant to a hearing, that the individual poses a potential danger to either the pupils or employees of the school district.

(d) The governing board of a school district, when making its determination whether to enroll an individual who has been expelled from another school district for these acts, may consider the following options:

- (1) Deny enrollment.
- (2) Permit enrollment.
- (3) Permit conditional enrollment in a regular school program or another educational program.

(e) Notwithstanding any other provision of law, the governing board of a school district, after a determination has been made, pursuant to a hearing, that an individual expelled from another school district for an act other than those described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, shall permit the individual to enroll in a school in the school district during the term of the expulsion, provided that he or she, subsequent to the expulsion, either has established legal residence in the school district, pursuant to Section 48200, or has enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600).

#### **EDN 48915.2.**

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless

it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

(b) After a determination has been made, pursuant to a hearing under Section 48918, that an individual expelled from another school district for any act described in subdivision (a) or (c) of Section 48915 does not pose a danger to either the pupils or employees of the school district, the governing board of a school district may permit the individual to enroll in the school district after the term of expulsion, subject to one of the following conditions:

- (1) He or she has established legal residence in the school district, pursuant to Section 48200.
- (2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

#### **EDN 48916.**

(a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. If an expulsion is ordered during summer session or the intersession period of a year-round program the governing board shall set a date, not later than the last day of the semester following the summer session or intersession period in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

#### **EDN 48916.5.**

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

#### **REGULATIONS**

No relevant regulations found.

## Use of restraint and seclusion

### LAWS

#### **EDN 49001.**

(a) For the purposes of this section “corporal punishment” means the willful infliction of, or willfully causing the infliction of, physical pain on a pupil. An amount of force that is reasonable and necessary for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to persons or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section. Physical pain or discomfort caused by athletic competition or other such recreational activity, voluntarily engaged in by the pupil, is not and shall not be construed to be corporal punishment within the meaning and intent of this section.

(b) No person employed by or engaged in a public school shall inflict, or cause to be inflicted corporal punishment upon a pupil. Every resolution, bylaw, rule, ordinance, or other act or authority permitting or authorizing the infliction of corporal punishment upon a pupil attending a public school is void and unenforceable.

#### **EDN 56520.**

(a) The Legislature finds and declares all of the following:

(1) That the state has continually sought to provide an appropriate and meaningful educational program in a safe and healthy environment for all children regardless of possible physical, mental, or emotionally disabling conditions.

(2) That some schoolage individuals with exceptional needs have significant behavioral challenges that have an adverse impact on their learning or the learning of other pupils, or both.

(3) That Section 1400(c)(5)(F) of Title 20 of the United States Code states that research and experience demonstrate that the education of children with disabilities can be made more effective by providing incentives for positive behavioral interventions and supports to address the learning and behavioral needs of those children.

(4) That procedures for the elimination of maladaptive behaviors shall not include those deemed unacceptable under Section 49001 or those that cause pain or trauma.

(b) It is the intent of the Legislature:

(1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

(2) That assessments and positive behavioral interventions and supports be developed and implemented in a manner informed by guidance from the United States Department of Education and technical assistance centers sponsored by the Office of Special Education Programs of the United States Department of Education.

(3) That when behavioral interventions, supports, and other strategies are used, they be used in consideration of the pupil’s physical freedom and social interaction, be administered in a manner that respects human dignity and personal privacy, and that ensure a pupil’s right to placement in the least restrictive educational environment.

(4) That behavioral intervention plans be developed and used, to the extent possible, in a consistent manner when the pupil is also the responsibility of another agency for residential care or related services.

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

**EDN 56521.**

(a) This chapter applies to any individual with exceptional needs who is in a public school program, including a state school for the disabled pursuant to Part 32 (commencing with Section 59000), or who is placed in a nonpublic school program pursuant to Sections 56365 to 56366.5, inclusive.

(b) The Superintendent of Public Instruction shall monitor and supervise the implementation of this chapter.

**EDN 56521.1.**

(a) Emergency interventions may only be used to control unpredictable, spontaneous behavior that poses clear and present danger of serious physical harm to the individual with exceptional needs, or others, and that cannot be immediately prevented by a response less restrictive than the temporary application of a technique used to contain the behavior.

(b) Emergency interventions shall not be used as a substitute for the systematic behavioral intervention plan that is designed to change, replace, modify, or eliminate a targeted behavior.

(c) No emergency intervention shall be employed for longer than is necessary to contain the behavior. A situation that requires prolonged use of an emergency intervention shall require the staff to seek assistance of the schoolsite administrator or law enforcement agency, as applicable to the situation.

(d) Emergency interventions shall not include:

(1) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(2) Employment of a device, material, or objects that simultaneously immobilize all four extremities, except that techniques such as prone containment may be used as an emergency intervention by staff trained in those procedures.

(3) An amount of force that exceeds that which is reasonable and necessary under the circumstances.

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

(1) The name and age of the individual with exceptional needs.

(2) The setting and location of the incident.

(3) The name of the staff or other persons involved.

(4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.

(5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days,



schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

#### **EDN 56521.2.**

(a) A local educational agency or nonpublic, nonsectarian school or agency serving individuals with exceptional needs pursuant to Sections 56365 and 56366, shall not authorize, order, consent to, or pay for the following interventions, or any other interventions similar to or like the following:

(1) Any intervention that is designed to, or likely to, cause physical pain, including, but not limited to, electric shock.

(2) An intervention that involves the release of noxious, toxic, or otherwise unpleasant sprays, mists, or substances in proximity to the face of the individual.

(3) An intervention that denies adequate sleep, food, water, shelter, bedding, physical comfort, or access to bathroom facilities.

(4) An intervention that is designed to subject, used to subject, or likely to subject, the individual to verbal abuse, ridicule, or humiliation, or that can be expected to cause excessive emotional trauma.

(5) Restrictive interventions that employ a device, material, or objects that simultaneously immobilize all four extremities, including the procedure known as prone containment, except that prone containment or similar techniques may be used by trained personnel as a limited emergency intervention.

(6) Locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.

(7) An intervention that precludes adequate supervision of the individual.

(8) An intervention that deprives the individual of one or more of his or her senses.

(b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

#### **EDN 56523.**

(a) The Superintendent shall repeal those regulations governing the use of behavioral interventions with individuals with exceptional needs receiving special education and related services that are no longer supported by statute, including Section 3052 and subdivisions (d), (e), (f), (g), and (ab) of Section 3001 of Title 5 of the California Code of Regulations, as those provisions existed on January 10, 2013.

(b) This chapter is necessary to implement the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and associated federal regulations. This chapter is intended to provide the clarity, definition, and specificity necessary for local educational agencies to comply with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and shall be implemented by local educational agencies without the development by the Superintendent and adoption by the state board of any additional regulations.

(c) Pursuant to Section 1401(9) of Title 20 of the United States Code, special education and related services must meet the standards of the department.

(d) As a condition of receiving funding from the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), a local educational agency shall agree to adhere to this chapter and implementing federal regulations set forth in this chapter.

(e) The Superintendent may monitor local educational agency compliance with this chapter and may take appropriate action, including fiscal repercussions, if either of the following is found:

(1) The local educational agency failed to comply with this chapter and failed to comply substantially with corrective action orders issued by the department resulting from monitoring findings or complaint investigations.

(2) The local educational agency failed to implement the decision of a due process hearing officer based on noncompliance with this part, provisions of the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), or the federal implementing regulations, wherein noncompliance resulted in the denial of, or impeded the delivery of, a free appropriate public education for an individual with exceptional needs.

(f) Commencing with the 2010–11 fiscal year, if any activities authorized pursuant to this chapter and implementing regulations are found to be a state reimbursable mandate pursuant to Section 6 of Article XIII B of the California Constitution, state funding provided for purposes of special education pursuant to Item 6110-161-0001 of Section 2.00 of the annual Budget Act shall first be used to directly offset any mandated costs.

(g) The Legislature hereby requests the Department of Finance on or before December 31, 2013, to exercise its authority pursuant to subdivision (d) of Section 17557 of the Government Code to file a request with the Commission on State Mandates for the purpose of amending the parameters and guidelines of CSM-4464 to delete any reimbursable activities that have been repealed by statute or executive order and to update offsetting revenues that apply to the mandated program.

#### **EDN 56524.**

The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

#### **EDN 56525.**

(a) A person recognized by the national Behavior Analyst Certification Board as a Board Certified Behavior Analyst may conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

(b) This section does not require a district, special education local plan area, or county office to use a Board Certified Behavior Analyst to conduct behavior assessments and provide behavioral intervention services for individuals with exceptional needs.

### **REGULATIONS**

No relevant regulations found.

## Alternative placements

### LAWS

#### **EDN 48268.**

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

#### **EDN 48903.**

(a) Except as provided in subdivision (g) of Section 48911 and in Section 48912, the total number of days for which a pupil may be suspended from school shall not exceed 20 schooldays in any school year, unless for purposes of adjustment, a pupil enrolls in or is transferred to another regular school, an opportunity school or class, or a continuation education school or class, in which case the total number of schooldays for which the pupil may be suspended shall not exceed 30 days in any school year.

(b) For the purposes of this section, a school district may count suspensions that occur while a pupil is enrolled in another school district toward the maximum number of days for which a pupil may be suspended in any school year.

#### **EDN 48910.**

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

#### **EDN 48911.1.**

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(e) This section does not place any limitation on a school district's ability to transfer a pupil to an opportunity school or class or a continuation education school or class.

#### **EDN 48915.**

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

- (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 schoolsite attended by the pupil at the time of suspension.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of

school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

(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 pupil causes a continuing danger to the physical safety of the pupil or others.

(f) The governing board of a school district shall refer a pupil who has been expelled pursuant to subdivision (b) or (e) to a program of study that meets all of the conditions specified in subdivision (d). Notwithstanding this subdivision, with respect to a pupil expelled pursuant to subdivision (e), if the county superintendent of schools certifies that an alternative program of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the pupil may be referred to a program of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.

#### **EDN 48915.01.**

If the governing board of a school district has established a community day school pursuant to Section 48661 on the same site as a comprehensive middle, junior, or senior high school, or at any elementary school, the governing board does not have to meet the condition in paragraph (2) of subdivision (d) of Section 48915 when the board, pursuant to subdivision (f) of Section 48915, refers a pupil to a program of study and that program of study is at the community day school. All the other conditions of subdivision (d) of Section 48915 are applicable to the referral as required by subdivision (f) of Section 48915.

#### **EDN 48915.2.**

(a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

#### **EDN 48915.5.**

(a) An individual with exceptional needs, as defined in Section 56026, may be suspended or expelled from school in accordance with Section 1415(k) of Title 20 of the United States Code, the discipline provisions contained in Sections 300.530 to 300.537, inclusive, of Title 34 of the Code of Federal Regulations, and other provisions of this part that do not conflict with federal law and regulations.

(b) A free appropriate public education for individuals with exceptional needs suspended or expelled from school shall be in accordance with Section 1412(a)(1) of Title 20 of the United States Code and Section 300.530(d) of Title 34 of the Code of Federal Regulations.

(c) If an individual with exceptional needs is excluded from schoolbus transportation, the pupil is entitled to be provided with an alternative form of transportation at no cost to the pupil or parent or guardian provided that transportation is specified in the pupil's individualized education program.

(d) If the individual with exceptional needs is a foster child, as defined in Section 48853.5, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the attorney for the individual with exceptional needs and an appropriate representative of the county child welfare agency shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code.

The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(e) If the individual with exceptional needs is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, and the local educational agency has proposed a change of placement due to an act for which a decision to recommend expulsion is at the discretion of the principal or the district superintendent of schools, the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code shall be invited to participate in the individualized education program team meeting that makes a manifestation determination pursuant to Section 1415(k) of Title 20 of the United States Code. The invitation may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

#### **EDN 48916.**

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

#### **EDN 48916.1.**

(a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion. Except for pupils expelled pursuant to subdivision (d) of Section 48915, the governing board of a school district is required to implement the provisions of this section only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.

(c) Any educational program provided pursuant to subdivision (b) may not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) may not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district. This subdivision, as it relates to the separation of pupils by grade levels, does not apply to community day schools offering instruction in any of kindergarten and grades 1 to 8, inclusive, and established in accordance with Section 48660.

(f) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

#### **EDN 48926.**

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

#### **REGULATIONS**

No relevant regulations found.

## ***Disciplinary Approaches Addressing Specific Infractions and Conditions***

### **Firearms (as required by the Gun-Free Schools Act)**

#### **LAWS**

##### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

(m) Possessed an imitation firearm. As used in this section, "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.

##### **EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.

##### **EDN 48915.7.**

It is the intent of the Legislature that where community school opportunities exist, the principal shall recommend for expulsion, and the governing board shall expel, any pupil who is found to be in possession of a firearm at school or at a school activity off school grounds and that the governing board shall request the county board of education to enroll the pupil in a community school.

**PEN 626.9.**

(a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (1) of subdivision (e), unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

This section does not prohibit or limit the otherwise lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Section 25615, 25625, 25630, or 25645.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (1) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(2) "Firearm" has the same meaning as that term is given in subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in Section 16850.

(4) "Concealed firearm" has the same meaning as that term is given in Sections 25400 and 25610.

(f) (1) Any person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

(2) Any person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:



(A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to Section 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) Any person who violates subdivision (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

(g) (1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section 25605, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property,

unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(l) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

- (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.
- (2) Section 25650.
- (3) Sections 25900 to 25910, inclusive.
- (4) Section 26020.

**PEN 30310.**

(a) Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under Section 25450.

(b) This section shall not apply to any of the following:

- (1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.
- (2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.
- (3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.
- (4) A member of the military forces of this state or of the United States who is engaged in the performance of that person's duties.

(5) A person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5.

(6) An armored vehicle guard, who is engaged in the performance of that person's duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

## **REGULATIONS**

No relevant regulations found.

## **Other weapons**

### **LAWS**

#### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(b) Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object, unless, in the case of possession of an object of this type, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

#### **EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(B) Possession of any knife or other dangerous object of no reasonable use to the pupil.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(2) Brandishing a knife at another person.

(5) Possession of an explosive.

(g) As used in this section, "knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.

(h) As used in this section, the term "explosive" means "destructive device" as described in Section 921 of Title 18 of the United States Code.

#### **EDN 49330.**

(a) (1) As used in this article "injurious object" shall mean those objects specified in the following sections:

(A) Section 16250 of the Penal Code.

(B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.

- (C) Section 16590 of the Penal Code.
- (D) Section 16880 of the Penal Code.
- (E) Section 17235 of the Penal Code.
- (F) Section 17240 of the Penal Code.
- (G) Section 17250 of the Penal Code.

(2) As used in this article, "injurious object" shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(b) As used in this section, "academic purpose" means any school sponsored activity or class of instruction scheduled during the schoolday.

(c) "Injurious object" does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

#### **EDN 49331.**

Any certificated employee of any school district and any classified employee of a school district who is designated by the governing board for such purposes may take from the personal possession of any pupil upon school premises or while under the authority of school personnel any injurious object in the possession of the pupil.

#### **EDN 49332.**

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

#### **EDN 49333.**

Notwithstanding Section 49332, a pupil who brings an injurious object to school, and who presents the object to a certificated or classified employee, may have the object returned to him or her at the conclusion of the school day, provided such injurious object may be lawfully possessed off school grounds.

#### **PEN 626.10.**

(a) (1) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2 1/2 inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in

making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses a razor blade or a box cutter upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2 1/2 inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2 1/2 inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2 1/2 inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2 1/2 inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, or any razor blade or box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section 16780, or a stun

gun, as defined in Section 17230, upon the grounds of, or within, a public or private college or university campus is guilty of a misdemeanor.

## **REGULATIONS**

No relevant regulations found.

## **Students with chronic disciplinary issues**

### **LAWS**

#### **EDN 48260.**

(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting.

(c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil's circumstances, are deemed to constitute a valid excuse.

#### **EDN 48260.5.**

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

- (a) That the pupil is truant.
- (b) That the parent or guardian is obligated to compel the attendance of the pupil at school.
- (d) That alternative educational programs are available in the district.
- (e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.
- (f) That the pupil may be subject to prosecution under Section 48264.
- (g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.
- (h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

#### **EDN 48260.6.**

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

- (1) The name of each pupil who has been classified as a truant.
- (2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

**EDN 48262.**

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

**EDN 48263.**

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

**EDN 48263.5.**

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

**EDN 48263.6.**

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate school district officer or employee has complied with Sections 48260, 48260.5, 48261, 48262, 48263, and 48291.

**EDN 48264.5.**

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

(1) Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment. The probation officer shall report to the court the failure of the pupil to comply with this paragraph.



**EDN 48267.**

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

**EDN 48268.**

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

**EDN 48915.**

(b) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil committed an act listed in paragraph (1) of subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel a pupil for any of those acts shall be based on a finding of one or both of the following:

- (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
- (2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(d) The governing board of a school district shall order a pupil expelled upon finding that the pupil committed an act listed in subdivision (c), and shall refer that pupil to a program of study that meets all of the following conditions:

- (1) Is appropriately prepared to accommodate pupils who exhibit discipline problems.

(e) Upon recommendation by the principal or the superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board of a school district may order a pupil expelled upon finding that the pupil, at school or at a school activity off of school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Section 48900, or Section 48900.2, 48900.3, or 48900.4, and either of the following:

- (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 pupil causes a continuing danger to the physical safety of the pupil or others.

## REGULATIONS

No relevant regulations found.

## Attendance and truancy

### LAWS

#### **EDN 32261.**

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

#### **EDN 48200.**

Each person between the ages of 6 and 18 years not exempted under the provisions of this chapter or Chapter 3 (commencing with Section 48400) is subject to compulsory full-time education. Each person subject to compulsory full-time education and each person subject to compulsory continuation education not exempted under the provisions of Chapter 3 (commencing with Section 48400) shall attend the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located and each parent, guardian, or other person having control or charge of the pupil shall send the pupil to the public full-time day school or continuation school or classes and for the full time designated as the length of the schoolday by the governing board of the school district in which the residence of either the parent or legal guardian is located.

Unless otherwise provided for in this code, a pupil shall not be enrolled for less than the minimum schoolday established by law.

#### **EDN 48260.**

(a) A pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse three full days in one school year or tardy or absent for more than a 30-minute period during the schoolday without a valid excuse on three occasions in one school year, or any combination thereof, shall be classified as a truant and shall be reported to the attendance supervisor or to the superintendent of the school district.

(b) Notwithstanding subdivision (a), it is the intent of the Legislature that school districts shall not change the method of attendance accounting provided for in existing law and shall not be required to employ period-by-period attendance accounting.

(c) For purposes of this article, a valid excuse includes, but is not limited to, the reasons for which a pupil shall be excused from school pursuant to Sections 48205 and 48225.5 and may include other reasons that are within the discretion of school administrators and, based on the facts of the pupil's circumstances, are deemed to constitute a valid excuse.

**EDN 48260.5.**

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

- (a) That the pupil is truant.
- (b) That the parent or guardian is obligated to compel the attendance of the pupil at school.
- (d) That alternative educational programs are available in the district.
- (e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.
- (f) That the pupil may be subject to prosecution under Section 48264.
- (g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.
- (h) That it is recommended that the parent or guardian accompany the pupil to school and attend classes with the pupil for one day.

**EDN 48260.6.**

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

- (1) The name of each pupil who has been classified as a truant.
- (2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

**EDN 48261.**

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

**EDN 48262.**

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

**EDN 48263.**

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

**EDN 48263.5.**

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

**EDN 48263.6.**

Any pupil subject to compulsory full-time education or to compulsory continuation education who is absent from school without a valid excuse for 10 percent or more of the schooldays in one school year, from the date of enrollment to the current date, is deemed a chronic truant, provided that the appropriate school district officer or employee has complied with Sections 48260, 48260.5, 48261, 48262, 48263, and 48291.

**EDN 48264.**

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

**EDN 48264.5.**

A minor who is classified as a truant pursuant to Section 48260 or 48261 may be required to attend makeup classes conducted on one day of a weekend pursuant to subdivision (c) of Section 37223 and is subject to the following:

(a) The first time a truancy report is issued, the pupil and, as appropriate, the parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the

school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

- (1) Performance at court-approved community services sponsored by either a public or private nonprofit agency for not less than 20 hours but not more than 40 hours over a period not to exceed 90 days, during a time other than the pupil's hours of school attendance or employment. The probation officer shall report to the court the failure of the pupil to comply with this paragraph.
- (2) Payment of a fine by the pupil of not more than fifty dollars (\$50) for which a parent or legal guardian of the pupil may be jointly liable. The fine described in this paragraph shall not be subject to the assessments of Section 1464 of the Penal Code or any other applicable section.
- (3) Attendance of a court-approved truancy prevention program.
- (4) Suspension or revocation of driving privileges pursuant to Section 13202.7 of the Vehicle Code. This subdivision shall apply only to a pupil who has attended a school attendance review board program, a program operated by a probation department acting as a school attendance review board, or a truancy mediation program pursuant to subdivision (c).

#### **EDN 48267.**

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

**EDN 48268.**

The court, in addition to any judgment it may make regarding the pupil, may render judgment that the parent, guardian, or person having the control or charge of the pupil shall deliver him at the beginning of each schoolday, for the remainder of the school term, at the school from which he is a truant, or in which he has been insubordinate or disorderly during attendance, or to a school designated by school authorities.

**EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(v) For a pupil subject to discipline under this section, a superintendent of the school district or principal may use his or her discretion to provide alternatives to suspension or expulsion that are age appropriate and designed to address and correct the pupil's specific misbehavior as specified in Section 48900.5.

(w) It is the intent of the Legislature that alternatives to suspension or expulsion be imposed against a pupil who is truant, tardy, or otherwise absent from school activities.

**PEN 270.1.**

(a) A parent or guardian of a pupil of six years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or compulsory continuation education, whose child is a chronic truant as defined in Section 48263.6 of the Education Code, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. A parent or guardian guilty of a misdemeanor under this subdivision may participate in the deferred entry of judgment program defined in subdivision (b).

(b) A superior court may establish a deferred entry of judgment program that includes the components listed in paragraphs (1) to (7), inclusive, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants as defined in Section 48263.6 of the Education Code:

(1) A dedicated court calendar.

(2) Leadership by a judge of the superior court in that county.

(3) Meetings, scheduled and held periodically, with school district representatives designated by the chronic truant's school district of enrollment. Those representatives may include school psychologists, school counselors, teachers, school administrators, or other educational service providers deemed appropriate by the school district.

(4) Service referrals for parents or guardians, as appropriate to each case that may include, but are not limited to, all of the following:

(A) Case management.

(B) Mental and physical health services.

(C) Parenting classes and support.

(D) Substance abuse treatment.

(E) Child care and housing.

(5) A clear statement that, in lieu of trial, the court may grant deferred entry of judgment with respect to the current crime or crimes charged if the defendant pleads guilty to each charge and waives time for

the pronouncement of judgment and that, upon the defendant's compliance with the terms and conditions set forth by the court and agreed to by the defendant upon the entry of his or her plea, and upon the motion of the prosecuting attorney, the court will dismiss the charge or charges against the defendant and the same procedures specified for successful completion of a drug diversion program or a deferred entry of judgment program pursuant to Section 851.90 and the provisions of Section 1203.4 shall apply.

(6) A clear statement that failure to comply with any condition under the program may result in the prosecuting attorney or the court making a motion for entry of judgment, whereupon the court will render a finding of guilty to the charge or charges pled, enter judgment, and schedule a sentencing hearing as otherwise provided in this code.

(7) An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment program and the defendant's rights relative to answering questions about his or her arrest and deferred entry of judgment following successful completion of the program.

(c) Funding for the deferred entry of judgment program pursuant to this section shall be derived solely from nonstate sources.

(d) A parent or guardian of an elementary school pupil who is a chronic truant, as defined in Section 48263.6 of the Education Code, may not be punished for a violation of both this section and the provisions of Section 272 that involve criminal liability for parents and guardians of truant children.

(e) If any district attorney chooses to charge a defendant with a violation of subdivision (a) and the defendant is found by the prosecuting attorney to be eligible or ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing, or state for the record, the grounds upon which that determination is based.

## **REGULATIONS**

### **5 CCR § 306. Explanation of absence.**

A principal or teacher may require satisfactory explanation from the parent or guardian of a pupil, either in person or by written note, whenever the pupil is absent a part or all of a school day. The explanation shall not be required until the day following.

## **Substance use**

### **LAWS**

#### **EDN 32261.**

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency



strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

#### **EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(c) Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

(d) Unlawfully offered, arranged, or negotiated to sell a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind, and either sold, delivered, or otherwise furnished to a person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.

(h) Possessed or used tobacco, or products containing tobacco or nicotine products, including, but not limited to, cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. However, this section does not prohibit use or possession by a pupil of his or her own prescription products.

(j) Unlawfully possessed or unlawfully offered, arranged, or negotiated to sell drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

(p) Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.

#### **EDN 48901.**

(a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

#### **EDN 48909.**

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the

school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

**EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(C) Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for either of the following:

- (i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- (ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

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

**EDN 48916.5.**

The governing board may require a pupil who is expelled from school for reasons relating to controlled substances, as defined in Sections 11054 to 11058, inclusive, of the Health and Safety Code, or alcohol, prior to returning to school to enroll in a county-supported drug rehabilitation program. No pupil shall be required to enroll in a rehabilitation program pursuant to this section without the consent of his or her parent or guardian.

**PEN 626.85.**

(a) Any specified drug offender who, at any time, comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, unless the person is a parent or guardian of a child attending that school and his or her presence is during any school activity, or is a student at the school and his or her presence is during any school activity, or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

- (1) Remains there after being asked to leave by the chief administrative officer of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, sheriff, or a Department of the California Highway Patrol peace officer.
- (2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1) of subdivision (a).
- (3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or to prohibit any lawful act, including picketing, strikes, or collective bargaining.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction, by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in the county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section:

(1) "Specified drug offender" means any person who, within the immediately preceding three years, has a felony or misdemeanor conviction of either:

(A) Unlawful sale, or possession for sale, of any controlled substance, as defined in Section 11007 of the Health and Safety Code.

(B) Unlawful use, possession, or being under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, where that conviction was based on conduct which occurred, wholly or partly, in any school building or upon any school ground, or adjacent street, sidewalk, or public way.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same calendar year the defendant came into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or public or private school having any of grades kindergarten to 12, inclusive.

(4) "School activity" means and includes any school session, any extracurricular activity or event sponsored by or participated in by the school, and the 30-minute periods immediately preceding and following any session, activity, or event.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the person that if he or she reenters the place he or she will be guilty of a crime.

## **REGULATIONS**

No relevant regulations found.

## **Bullying, harassment, or hazing**

### **LAWS**

#### **EDN 200.**

It is the policy of the State of California to afford all persons in public schools, regardless of their disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the

Penal Code, equal rights and opportunities in the educational institutions of the state. The purpose of this chapter is to prohibit acts that are contrary to that policy and to provide remedies therefor.

**EDN 201.**

- (a) All pupils have the right to participate fully in the educational process, free from discrimination and harassment.
- (b) California's public schools have an affirmative obligation to combat racism, sexism, and other forms of bias, and a responsibility to provide equal educational opportunity.
- (c) Harassment on school grounds directed at an individual on the basis of personal characteristics or status creates a hostile environment and jeopardizes equal educational opportunity as guaranteed by the California Constitution and the United States Constitution.
- (d) There is an urgent need to prevent and respond to acts of hate violence and bias-related incidents that are occurring at an increasing rate in California's public schools.
- (e) There is an urgent need to teach and inform pupils in the public schools about their rights, as guaranteed by the federal and state constitutions, in order to increase pupils' awareness and understanding of their rights and the rights of others, with the intention of promoting tolerance and sensitivity in public schools and in society as a means of responding to potential harassment and hate violence.
- (f) It is the intent of the Legislature that each public school undertake educational activities to counter discriminatory incidents on school grounds and, within constitutional bounds, to minimize and eliminate a hostile environment on school grounds that impairs the access of pupils to equal educational opportunity.
- (g) It is the intent of the Legislature that this chapter shall be interpreted as consistent with Article 9.5 (commencing with Section 11135) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code, Title VI of the federal Civil Rights Act of 1964 (42 U.S.C. Sec. 1981, et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. Sec. 1681, et seq.), Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)), the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), the federal Equal Educational Opportunities Act (20 U.S.C. Sec. 1701, et seq.), the Unruh Civil Rights Act (Secs. 51 to 53, incl., Civ. C.), and the Fair Employment and Housing Act (Pt. 2.8 (commencing with Sec. 12900), Div. 3, Gov. C.), except where this chapter may grant more protections or impose additional obligations, and that the remedies provided herein shall not be the exclusive remedies, but may be combined with remedies that may be provided by the above statutes.

**EDN 210.2.**

"Disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code" includes a perception that the person has any of those characteristics or that the person is associated with a person who has, or is perceived to have, any of those characteristics.

**EDN 210.7.**

"Gender" means sex, and includes a person's gender identity and gender expression. "Gender expression" means a person's gender-related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

**EDN 212.**

"Nationality" includes citizenship, country of origin, and national origin.

**EDN 212.1.**

“Race or ethnicity” includes ancestry, color, ethnic group identification, and ethnic background.

**EDN 212.3.**

“Religion” includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

**EDN 212.5.**

“Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

- (a) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual’s employment, academic status, or progress.
- (b) Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.
- (c) The conduct has the purpose or effect of having a negative impact upon the individual’s work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.
- (d) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

**EDN 212.6**

“Sexual orientation” means heterosexuality, homosexuality, or bisexuality.

**EDN 220.**

No person shall be subjected to discrimination on the basis of disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other characteristic that is contained in the definition of hate crimes set forth in Section 422.55 of the Penal Code in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.

**EDN 221.1**

The State Board of Education shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, commonly referred to as the rulemaking provisions of the Administrative Procedure Act, to implement this chapter.

**EDN 234.**

- (a) This article shall be known, and may be cited, as the Safe Place to Learn Act.
- (b) It is the policy of the State of California to ensure that all local educational agencies continue to work to reduce discrimination, harassment, violence, intimidation, and bullying. It is further the policy of the state to improve pupil safety at schools and the connections between pupils and supportive adults, schools, and communities.

**EDN 234.1.**

The department, pursuant to subdivision (b) of Section 64001, shall monitor adherence to the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California

Code of Regulations and Chapter 2 (commencing with Section 200) of this part as part of its regular monitoring and review of local educational agencies, commonly known as the Categorical Program Monitoring process. The department shall assess whether local educational agencies have done all of the following:

- (a) Adopted a policy that prohibits discrimination, harassment, intimidation, and bullying based on the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The policy shall include a statement that the policy applies to all acts related to school activity or school attendance occurring within a school under the jurisdiction of the superintendent of the school district.
- (b) Adopted a process for receiving and investigating complaints of discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 of this code, and disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or association with a person or group with one or more of these actual or perceived characteristics. The complaint process shall include, but not be limited to, all of the following:
  - (1) A requirement that, if school personnel witness an act of discrimination, harassment, intimidation, or bullying, they shall take immediate steps to intervene when safe to do so.
  - (2) A timeline to investigate and resolve complaints of discrimination, harassment, intimidation, or bullying that shall be followed by all schools under the jurisdiction of the school district.
  - (3) An appeal process afforded to the complainant should he or she disagree with the resolution of a complaint filed pursuant to this section.
  - (4) All forms developed pursuant to this process shall be translated pursuant to Section 48985.
- (c) Publicized antidiscrimination, antiharassment, anti-intimidation, and antibullying policies adopted pursuant to subdivision (a), including information about the manner in which to file a complaint, to pupils, parents, employees, agents of the governing board, and the general public. The information shall be translated pursuant to Section 48985.
- (d) Posted the policy established pursuant to subdivision (a) in all schools and offices, including staff lounges and pupil government meeting rooms.
- (e) Maintained documentation of complaints and their resolution for a minimum of one review cycle.
- (f) Ensured that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation, or bullying remains confidential, as appropriate.
- (g) Identified a responsible local educational agency officer for ensuring school district or county office of education compliance with the requirements of Chapter 5.3 (commencing with Section 4900) of Division 1 of Title 5 of the California Code of Regulations and Chapter 2 (commencing with Section 200) of this part.

**EDN 234.2.**

The department shall display current information, and periodically update information, on curricula and other resources that specifically address bias-related discrimination, harassment, intimidation, and bullying based on any of the actual or perceived characteristics set forth in Section 422.55 of the Penal Code and Section 220 on the California Healthy Kids Resource Center Internet Web site and other appropriate department Internet Web sites where information about discrimination, harassment, intimidation, and bullying is posted.

**EDN 234.3.**

The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

**EDN 234.5.**

The Superintendent shall post, and annually update, on the department's Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families. The department's Internet Web site shall also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

**EDN 32261.**

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

**EDN 32282.**

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(C) Policies pursuant to subdivision (d) of Section 48915 for pupils who committed an act listed in subdivision (c) of Section 48915 and other school-designated serious acts which would lead to suspension, expulsion, or mandatory expulsion recommendations pursuant to Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2.

(D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

(E) A discrimination and harassment policy consistent with the prohibition against discrimination contained in Chapter 2 (commencing with Section 200) of Part 1.

(f) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

**EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(q) Engaged in, or attempted to engage in, hazing. For purposes of this subdivision, “hazing” means a method of initiation or preinitiation into a pupil 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 pupil. For purposes of this subdivision, “hazing” does not include athletic events or school-sanctioned events.

(r) Engaged in an act of bullying. For purposes of this subdivision, the following terms have the following meanings:

(1) “Bullying” means any severe or pervasive physical or verbal act or conduct, including communications made in writing or by means of an electronic act, and including one or more acts committed by a pupil or group of pupils as defined in Section 48900.2, 48900.3, or 48900.4, directed toward one or more pupils that has or can be reasonably predicted to have the effect of one or more of the following:

(A) Placing a reasonable pupil or pupils in fear of harm to that pupil’s or those pupils’ person or property.

(B) Causing a reasonable pupil to experience a substantially detrimental effect on his or her physical or mental health.

(C) Causing a reasonable pupil to experience substantial interference with his or her academic performance.

(D) Causing a reasonable pupil to experience substantial interference with his or her ability to participate in or benefit from the services, activities, or privileges provided by a school.

(2) (A) “Electronic act” means the creation and transmission originated on or off the schoolsite, by means of an electronic device, including, but not limited to, a telephone, wireless telephone, or other wireless communication device, computer, or pager, of a communication, including, but not limited to, any of the following:

(i) A message, text, sound, or image.

(ii) A post on a social network Internet Web site, including, but not limited to:

(I) Posting to or creating a burn page. “Burn page” means an Internet Web site created for the purpose of having one or more of the effects listed in paragraph (1).

(II) Creating a credible impersonation of another actual pupil for the purpose of having one or more of the effects listed in paragraph (1). “Credible impersonation” means to knowingly and without consent impersonate a pupil for the purpose of bullying the pupil and such that another pupil would reasonably believe, or has reasonably believed, that the pupil was or is the pupil who was impersonated.

(III) Creating a false profile for the purpose of having one or more of the effects listed in paragraph (1). “False profile” means a profile of a fictitious pupil or a profile using the likeness or attributes of an actual pupil other than the pupil who created the false profile.

(B) Notwithstanding paragraph (1) and subparagraph (A), an electronic act shall not constitute pervasive conduct solely on the basis that it has been transmitted on the Internet or is currently posted on the Internet.



(3) “Reasonable pupil” means a pupil, including, but not limited to, an exceptional needs pupil, who exercises average care, skill, and judgment in conduct for a person of his or her age, or for a person of his or her age with his or her exceptional needs.

**EDN 48900.2.**

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

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

**EDN 48900.3.**

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

**EDN 48900.4.**

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

**EDN 48900.9.**

(a) The superintendent of a school district, the principal of a school, or the principal’s designee may refer a victim of, witness to, or other pupil affected by, an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate.

(b) A student who has engaged in an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, may also be referred to the school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program, pursuant to Section 48900.5.

**PEN 245.6.**

(a) It shall be unlawful to engage in hazing, as defined in this section.

(b) “Hazing” means any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community

college, college, university, or other educational institution in this state. The term “hazing” does not include customary athletic events or school-sanctioned events.

(c) A violation of this section that does not result in serious bodily injury is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both.

(d) Any person who personally engages in hazing that results in death or serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(e) The person against whom the hazing is directed may commence a civil action for injury or damages. The action may be brought against any participants in the hazing, or any organization to which the student is seeking membership whose agents, directors, trustees, managers, or officers authorized, requested, commanded, participated in, or ratified the hazing.

(f) Prosecution under this section shall not prohibit prosecution under any other provision of law.

## **REGULATIONS**

### **5 CCR § 4600. General definitions.**

As used in this chapter, the term:

(a) “Appeal” means a request made in writing to a level higher than the original reviewing level by an aggrieved party requesting reconsideration or a reinvestigation of the lower adjudicating body’s decision.

(b) “Beginning of the year or semester” means the first day classes necessary to serve all the students enrolled are established with a single designated certificated employee assigned for the duration of the class, but not later than 20 working days after the first day students attend classes for that semester.

(c) “CDE” means the California Department of Education.

(d) “Complainant” means any individual, including a person’s duly authorized representative or an interested third party, public agency, or organization who files a written complaint alleging violation of federal or state laws or regulations, including allegations of unlawful discrimination, harassment, intimidation or bullying in programs and activities funded directly by the state or receiving any financial assistance from the state.

(e) “Complaint” means a written and signed statement alleging a violation of federal or state laws or regulations, which may include an allegation of unlawful discrimination, harassment, intimidation or bullying. If the complainant is unable to put the complaint in writing, due to conditions such as a disability or illiteracy, the public agency shall assist the complainant in the filing of the complaint.

(f) “Complaint investigation” means an administrative process used by the California Department of Education (CDE) or local educational agency (LEA) for the purpose of gathering data regarding the complaint.

(g) “Complaint procedure” means an internal process used by the CDE or LEA to process and resolve complaints.

(h) “Days” means calendar days unless designated otherwise.

(i) “Direct state intervention” means the steps taken by the CDE to initially investigate complaints or effect compliance.

(j) “Educational activity” shall have the same definition as found in Education Code section 49010(a).

- (k) "Educational institution" means a public or private preschool, elementary, or secondary school or institution, the governing board of a school district, or any combination of school districts or counties recognized as the administrative agency for public elementary or secondary schools.
- (l) "Facilities that pose an emergency or urgent threat to the health or safety of pupils or staff" means a condition as defined in Education Code section 17592.72(c)(1) and any other emergency conditions the school district determines appropriate.
- (m) "Good repair" shall have the same definition as that found in Education Code section 17002(d).
- (n) "Instructional materials" means all materials that are designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or nonprinted, and may include textbooks, technology-based materials, other educational materials, and tests.
- (o) "Local agency" means a school district governing board or a local public or private agency which receives direct or indirect funding or any other financial assistance from the state to provide any school programs or activities or special education or related services.
- (p) "Local educational agency" (LEA) includes any public school district and county office of education or direct-funded charter school.
- (q) "Mediation" means a problem solving activity whereby a third party assists the parties to the dispute in resolving the complaint.
- (r) "Misassignment" means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.
- (s) "Public agency" means any local agency or state agency.
- (t) "Pupil fee" shall have the same definition as found in Education Code section 49010(b).
- (u) "Reasonable efforts" means a public school's good faith attempts to identify and fully reimburse all pupils, parents and guardians who paid a pupil fee within one year prior to the filing of the complaint.
- (1) Reasonable efforts to identify pupils who paid a pupil fee include but are not limited to researching existing school records, contacting pupils who were enrolled in or participating in the educational activity during the time the pupil fee was charged, and considering submissions of proof of payment of the pupil fee.
- (2) Reasonable efforts to fully reimburse all pupils, parents and guardians who paid a pupil fee include but are not limited to crediting the pupil's school financial account and sending reimbursement by first class mail to the pupil's last known primary address as contained in school or local educational agency records. If the school has knowledge that a pupil's last known address as contained in school or local educational agency records is no longer valid, the school may attempt to obtain a more recent address from any notices returned to the school or local educational agency by the United States Postal Service.
- (v) "SSPI" means the State Superintendent of Public Instruction or his or her designee.
- (w) "State agency" means the State Departments State Hospitals or Health Services or any other state administrative unit that is or may be required to provide special education or related services to children with disabilities pursuant to Government Code section 7570 et seq.
- (x) "State mediation agreement" means a written, voluntary agreement approved by the CDE, which is developed by the parties to the dispute, which resolves the allegations of the complaint.
- (y) "Subject matter competency" means the teacher meets the applicable requirements of Chapter 6, article 1, subchapter 7 of these regulations, commencing with section 6100, for the course being taught.

(z) "Sufficient textbooks or instructional materials" means that each pupil, including English learners, has a textbook or instructional materials, or both, to use in class and to take home but does not require two sets of textbooks or instructional materials for each pupil. Sufficient textbooks or instructional materials does not include photocopied sheets from only a portion of a textbook or instructional materials copied to address a shortage.

(aa) "Teacher vacancy" means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position of which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

#### **5 CCR § 4610. Purpose and scope.**

(a) This Chapter applies to the filing, investigation and resolution of a complaint regarding an alleged violation by a local agency of federal or state law or regulations governing educational programs, including allegations of unlawful discrimination, harassment, intimidation or bullying. The purpose of this chapter is to establish a uniform system of complaint processing for specified programs or activities that receive state or federal funding.

(b) This chapter applies to the following programs administered by the CDE:

- (1) Adult Education programs established pursuant to Education Code sections 8500 through 8538 and 52500 through 52616.4;
- (2) Consolidated Categorical Aid Programs as listed in Education Code section 64000(a);
- (3) Migrant Education established pursuant to Education Code sections 54440 through 54445;
- (4) Career Technical and Technical Education and Career Technical and Technical Training Programs established pursuant to Education Code sections 52300 through 52480;
- (5) Child Care and Development Programs established pursuant to Education Code sections 8200 through 8493;
- (6) Child Nutrition Programs established pursuant to Education Code sections 49490 through 49570; and
- (7) Special Education Programs established pursuant to Education Code sections 56000 through 56885 and 59000 through 59300.

(c) This chapter also applies to the filing of complaints which allege unlawful discrimination, harassment, intimidation or bullying against any protected group as identified under Education Code section 200 and 220 and Government Code section 11135, including any actual or perceived characteristic as set forth in Penal Code section 422.55, or on the basis of a person's association with a person or group with one or more of these actual or perceived characteristics, in any program or activity conducted by a local agency, which is funded directly by, or that receives or benefits from any state financial assistance.

(d) This chapter also applies to the filing of complaints which allege noncompliance with the provisions of Education Code sections 49010 and 49011 regarding pupil fees.

(e) Nothing in these regulations shall prevent an LEA from using its local uniform complaint procedure to address complaints not listed in this section.

(f) The CDE will develop a pamphlet for parents that will explain the Uniform Complaint Procedures in a user friendly manner and post this pamphlet on the CDE's Web site.

#### **5 CCR § 4611. Referring complaint issues to other appropriate state or federal agencies.**

The following complaints shall be referred to the specified agencies for appropriate resolution and are not subject to the local and CDE complaint procedures set forth in this chapter unless these procedures are made applicable by separate interagency agreements:

- (a) Allegations of child abuse shall be referred to the applicable County Department of Social Services (DSS), Protective Services Division or appropriate law enforcement agency. However, nothing in this section relieves the CDE from investigating complaints pursuant to section 4650(a)(8)(C) herein.
- (b) Health and safety complaints regarding a Child Development Program shall be referred to Department of Social Services for licensed facilities, and to the appropriate Child Development regional administrator for licensing-exempt facilities.
- (c) Employment discrimination complaints shall be sent to the State Department of Fair Employment and Housing (DFEH) pursuant to title 22, CCR, section 98410. The complainant shall be notified by first class mail of any DFEH transferral.
- (d) Allegations of fraud shall be referred to the responsible CDE Division Director who may consult with the CDE's Legal, Audits, and Compliance Branch.

#### **5 CCR § 4620. LEA responsibilities.**

Each LEA shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. Each LEA shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation or bullying and seek to resolve those complaints in accordance with the procedures set out in this chapter and in accordance with the policies and procedures of the governing board.

#### **5 CCR § 4621. District policies and procedures.**

- (a) Each LEA shall adopt policies and procedures not inconsistent with sections 4600-4695 of this chapter for the investigation and resolution of complaints. Local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying remain confidential as appropriate. School Districts and County Offices of Education shall submit their policies and procedures to the local governing board for adoption.
- (b) Each LEA shall include in its policies and procedures the person(s), employee(s) or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA compliance. The LEA's policies shall ensure that the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.
- (c) Except for complaints under sections 4680-4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, the LEA may provide a complaint form for persons wishing to file a complaint to fill out and file. A complaint form shall be provided for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments. However, a person is not required to use the complaint form furnished by the LEA in order to file a complaint.

#### **5 CCR § 4622. Notice.**

Each LEA shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties of their LEA complaint procedures, including the opportunity to appeal to the CDE and the provisions of this chapter. The notice shall include the identity (identities) of the person(s) responsible for processing complaints. The notice shall also advise the recipient of any civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code section 262.3. The notice shall also include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees. This notice shall be in English, and when necessary,

in the primary language, pursuant to Education Code section 48985, or mode of communication of the recipient of the notice. Copies of LEA complaint procedures shall be available free of charge.

**5 CCR § 4630. Filing a local complaint; Procedures, time lines.**

(a) Except for complaints under sections 4680-4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, harassment, intimidation or bullying and complaints regarding pupil fees, any individual, public agency or organization may file a written complaint with the district superintendent or his or her designee alleging a matter which, if true, would constitute a violation by that LEA of federal or state law or regulation governing a program listed in section 4610(b) of this chapter.

(b) An investigation of alleged unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying unless the time for filing is extended by the district superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the district superintendent or his or her designee shall be made in writing. The period for filing may be extended by the district superintendent or his or her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The district superintendent shall respond immediately upon a receipt of a request for extension.

(1) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation or bullying, or by one who believes an individual or any specific class of individuals has been subjected to discrimination, harassment, intimidation or bullying prohibited by this part.

(2) The complaint shall be filed with the LEA in accordance with the complaint procedures of the LEA.

(3) An investigation of a discrimination, harassment, intimidation or bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

(c)(1) Pupil fee complaints may be filed with the principal of the school.

(2) Pupil fee complaints shall be filed not later than one year from the date the alleged violation occurred.

(3) Pupil fee complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with Education Code sections 49010 and 49011 regarding pupil fees.

**5 CCR § 4631. Responsibilities of the LEA.**

(a) Except for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, which must be processed in accordance with sections 4680-4687, within 60 days from the date of the receipt of the complaint, the LEA person responsible for the investigation of the complaints or his or her designee shall conduct and complete an investigation of the complaint in accordance with the local procedures adopted pursuant to section 4621 and prepare a written LEA Decision. This time period may be extended by written agreement of the complainant.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

(e) The LEA should issue a Decision (the Decision) based on the evidence. The Decision shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the LEA. The Decision should contain:

- (1) the findings of fact based on the evidence gathered,
- (2) conclusion of law,
- (3) disposition of the complaint,
- (4) the rationale for such disposition,
- (5) corrective actions, if they are warranted, including, with respect to a pupil fee complaint, a remedy that comports with Education Code section 49013(d) and section 4600(u).
- (6) notice of the complainant's right to appeal the LEA Decision to the CDE, and
- (7) procedures to be followed for initiating an appeal to the CDE.

(f) Nothing in this chapter shall prohibit the parties from utilizing alternative methods to resolve the allegations in the complaint, including, but not limited to, mediation.

(g) Nothing in this chapter shall prohibit an LEA from resolving complaints prior to the formal filing of a written complaint.

#### **5 CCR § 4632. Appeal of LEA decision - Grounds.**

(a) Except for complaints under sections 4681 and 4682 regarding instructional materials and teacher vacancies or misassignments, a complainant may appeal a Decision to the CDE by filing a written appeal within 15 days of receiving the Decision.

(b) The complainant shall specify the basis for the appeal of the Decision and whether the facts are incorrect and/or the law is misapplied.

(c) The appeal shall be accompanied by:

- (1) a copy of the locally filed complaint; and
- (2) a copy of the Decision.

(d) If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the LEA for resolution as a new complaint under section 4630 or 4631.

(e) If the CDE determines that the Decision failed to address an issue raised by the complaint, the CDE shall refer the matter to the LEA to make the necessary findings and conclusions on any issue not addressed. The LEA will address the issue within 20 days from the date of the referral.

#### **5 CCR § 4633. Appeal of LEA decision.**

(a) If the Decision is appealed, the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the Decision has been appealed, the LEA shall forward the following to the CDE:

- (1) A copy of the original complaint;
- (2) A copy of the Decision;

- (3) A summary of the nature and extent of the investigation conducted by the LEA, if not covered in the Decision;
  - (4) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
  - (5) A report of any action taken to resolve the complaint;
  - (6) A copy of the LEA complaint procedures; and
  - (7) Such other relevant information as the CDE may request.
- (b) The CDE shall not receive evidence from the parties that could have been presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE.
- (c) The CDE may contact the parties for further information, if necessary.
- (d) The CDE shall review the investigation file, the summary of the nature and extent of the investigation conducted by the LEA, the complaint procedures, documents and any other evidence received from the LEA and determine whether substantial evidence exists:
- (1) That the LEA followed its complaint procedures; and
  - (2) That the relevant findings of fact in the Decision which are the subject of the appeal are supported by the evidence.
- (e) The CDE shall review the conclusions of law which are the subject of the appeal and determine whether they are correct.
- (f) If the CDE determines that the Decision is deficient because it lacks findings of fact and conclusions of law regarding the subject of the appeal, the CDE may return the Decision to the LEA in order to correct the deficiencies within 20 days of the return.
- (g) If the CDE finds that the Decision is supported by substantial evidence, and that the legal conclusions are not contrary to law, the appeal shall be denied.
- (h) If the CDE finds the grounds for the appeal have merit:
- (1) The CDE may, if there is a lack of substantial evidence or a procedural defect in the investigation, remand the investigation to the LEA for further investigation of the allegations which are the subject of the appeal; or
  - (2) The CDE may issue a decision based on the evidence in the investigation file received from the LEA; or
  - (3) If the CDE determines that it is in the best interest of the parties, conduct a further investigation of the allegations which are the basis for the appeal and issue a decision following further investigation.
- (i) If the CDE finds merit in the appeal, the CDE's decision on appeal shall contain the following:
- (1) A finding that the LEA complied or did not comply with its complaint procedures;
  - (2) The CDE's findings of fact and conclusions of law regarding the issue on appeal; and
  - (3) Where a determination is made that the LEA failed to comply with the applicable state or federal law or regulation, remedial orders and/or required actions to address the violation(s), including, with respect to a pupil fee complaint, a remedy that specifies the LEA's obligation to comply with Education Code section 49013(d) and section 4600(u).
- (j) The CDE must issue a written decision regarding an appeal of a pupil fee complaint and provide a copy of the written decision to the appellant within 60 days of the CDE's receipt of the appeal.



**5 CCR § 4640. Filing a state complaint that has not first been filed at the Local Educational Agency (LEA); Time lines, notice, appeal rights.**

Referral to the LEA for Local Resolution.

(a) If a complaint is erroneously filed with the CDE without first being filed with and investigated by the LEA, the CDE shall immediately forward the complaint to the LEA for processing in accordance with article 4 of this chapter, unless extraordinary circumstances exist necessitating direct state intervention as described at section 4650.

(b) A letter shall be sent by first class mail to the complainant(s) notifying him, her, or them that:

- (1) The CDE does not have jurisdiction, at this time, over the complaint and that the complaint should have been filed with the LEA in the first instance;
- (2) That the complaint has been transferred to the local educational agency requesting the local educational agency to process and investigate the allegation in the complaint; and
- (3) That the complainant may file an appeal to the CDE following the issuance of the Decision, if he or she believes as a matter of fact or law the Decision is incorrect.

**5 CCR § 4650. Basis of direct state intervention.**

(a) Except for complaints under sections 4680, 4681, 4682 and 4683 regarding instructional materials, teacher vacancies or misassignments, and condition of a facility, the CDE shall directly intervene without waiting for LEA investigation if one or more of the following situations exist:

- (1) The complaint includes an allegation, and the CDE verifies, that an LEA failed to comply with the complaint procedures required by this Chapter and its local rules and regulations, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation;
- (2) The complaint relates to an agency that is not an LEA funded through the Child Development or Child Nutrition Programs;
- (3) The complainant requests anonymity because he or she would be in danger of retaliation and would suffer immediate and irreparable harm if he or she filed a complaint with the LEA (except for complaints regarding pupil fees, which may be filed anonymously with the principal of a public school);
- (4) The complainant alleges that the LEA failed or refused to implement the final decision resulting from its local investigation or local mediation agreement;
- (5) The complainant alleges and the CDE verifies that through no fault of the complainant, no action has been taken by the LEA within 60 calendar days of the date the complaint was filed. Prior to direct intervention, the CDE shall attempt to work with the LEA to allow it to complete the investigation and issue a Decision.
- (6) The complainant alleges and the CDE verifies that he or she would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this Chapter, and that filing a complaint with the LEA would be futile.
- (7) For complaints relating to special education, any one of the following shall be a condition for direct state intervention:
  - (A) The complainant alleges that a public agency, other than an LEA, as specified in Government Code section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities;
  - (B) The complainant alleges that the LEA or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;

(C) The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.

(D) The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).

(E) The complaint involves a violation of federal law governing special education, 20 U.S.C. section 1400 et seq., or its implementing regulations.

(b) The complaint shall identify the basis, as described in subdivision (a) above, for filing the complaint directly to the CDE. The complainant must present the CDE with clear and verifiable evidence that supports the basis for the direct filing, except as in subdivision (a)(7).

#### **5 CCR § 4651. Notification.**

When the Department receives a complaint requesting direct State intervention, the Department shall determine whether the complaint meets one or more of the criterion specified in section 4650 for direct State intervention and shall immediately notify the complainant by first class mail of the determination to accept the complaint without a local educational agency investigation and/or Decision. If the complaint is not accepted, it shall be referred to the local educational agency for local investigation, or referred to another agency pursuant to section 4611.

#### **5 CCR § 4660. Department resolution procedures.**

(a) When the Department determines that direct State intervention is warranted pursuant to any provision of section 4650, the following procedures shall be used to resolve the issues of the complaint:

(1) The Department shall consider alternative methods to resolve the allegations in the complaint.

(2) If both parties request mediation, the Department shall offer to mediate the dispute which may lead to a state mediation agreement.

(3) The Department shall conduct an investigation, including an on-site investigation if necessary, into the allegations in the complaint unless a settlement agreement has been reached between the parties that disposes of all the issues in the complaint.

#### **5 CCR § 4662. Investigation timeline.**

(a) Each party in the dispute shall be sent written notification by the Department of the name(s) of the investigator(s) and the investigation date(s), if known. The notice shall explain the investigation process.

(b) An investigation will be completed within 60 days after receiving a request for direct intervention or an appeal request, unless the parties have agreed to extend the time lines. The Department may grant extensions for the investigation if exceptional circumstances exist that constitute good cause with respect to the particular complaint, and provided that the complainant is informed of the extension and the reasons therefore and provided that the facts supporting the extension are documented and maintained in the complaint file.

#### **5 CCR § 4663. Department investigation procedures.**

(a) The investigator(s) shall request all documentation and other evidence regarding the allegations in the complaint.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in

any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the local educational agency to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

**5 CCR § 4664. Department investigation report.**

(a) An investigation report shall be issued. The investigation report shall include the following:

- (1) A summary of the allegations in the complaint;
- (2) A description of the general procedures of the investigation;
- (3) Citations of applicable law and regulations;
- (4) Department findings of facts;
- (5) Department conclusions;
- (6) LEA required actions, if applicable;
- (7) LEA recommended specific actions, if applicable;
- (8) Time line for corrective actions, if applicable; and
- (9) Notice that any party may request reconsideration of the Department's report from the Superintendent of Public Instruction within 35 days of the receipt of the report.
- (10) For those programs governed by Part 76 of Title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.

(b) An investigation report shall be mailed to the parties within 60 days from the conclusion of the investigation.

**5 CCR § 4665. Discretionary reconsideration of department investigation report.**

(a) Within 35 days of receipt of the Department investigation report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s) or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.

(b) Within 35 days of the receipt of the request for reconsideration, the Superintendent or his or her designee may respond in writing to the parties modifying the specific finding(s), conclusion(s), or corrective action(s) for which reconsideration is requested, or denying the request for reconsideration. Pending the Superintendent's reconsideration, the Department report remains in effect and enforceable.

(c) Appeals by private agencies regarding Child Care Food Programs shall be made to the State Office of Administrative Hearings in accordance with applicable laws and regulations.

(d) Appeals from investigations of complaints involving Child Development contractors, whether public or private, shall be made to the Superintendent of Public Instruction as provided in subsection (a) except as otherwise provided in division 19 of title 5 of the Code of California Regulations.

(e) For those programs governed by part 76 of title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.

### **5 CCR § 4670. Enforcement.**

(a) Upon determination that a local agency violated the provisions of this chapter, the Department shall notify the local agency pursuant to section 4664(b) that it must take corrective action to come into compliance. If corrective action is not taken, the Department may use any means authorized by law to effect compliance, including, but not limited to:

- (1) The withholding of all or part of the local agency's relevant state or federal fiscal support in accordance with state or federal statute or regulation;
- (2) Probationary eligibility for future state or federal support, conditional on compliance with specified conditions;
- (3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.

(b) No decision to curtail state or federal funding to a local agency under this chapter shall be made until the Department has determined that compliance cannot be secured by other means.

(c) If the Department determines that a Child Development Contractor's Agreement shall be terminated, the procedures set forth in sections 8257(d) or 8400 et seq. of the Education Code and the regulations promulgated pursuant thereto (chapter 19 of title 5, CCR, commencing with section 17906), shall be followed.

(d) If the Department determines that a local educational agency has failed to comply with any provision of sections 49550 through 49554 of the Education Code, the Department shall certify such noncompliance to the Attorney General for investigation pursuant to section 49556 of the Education Code.

### **5 CCR § 4915. General prohibitions.**

A person in the educational environment of a local agency shall not sexually harass another person in the work or educational environment of the local agency. Sexual harassment is a form of sex discrimination and, as such, may result in disciplinary or other action taken by the local agency.

### **5 CCR § 4916. Sexual harassment definitions.**

(a) "Sexual harassment" means any unwelcome sexual advance, unwelcome requests for sexual favors, or other unwelcome verbal, visual, or physical conduct of a sexual nature made by someone from or in the educational or work setting, whether it occurs between individuals of the same sex or individuals of opposite sexes, under any of the following conditions:

- (1) Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's academic status, employment, or progress.
- (2) Submission to, or rejection of, the conduct by the individual is used as the basis of academic or employment decisions affecting the individual.
- (3) The conduct has the purpose or effect of having a negative impact upon the individual's academic performance, work, or progress or has the purpose or effect of creating an intimidating, hostile, or offensive educational or working environment. The conduct is sufficiently severe, persistent, pervasive or objectively offensive, so as to create a hostile or abusive educational or working environment or to limit the individual's ability to participate in or benefit from an education program or activity.
- (4) Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the local agency.

(b) "Verbal sexual harassment" includes, but is not limited to, unwelcome epithets, comments, or slurs of a sexual nature.

(c) “Physical sexual harassment” includes, but is not limited to, assault, impeding or blocking movement, or any physical interference with work or school activities or movement when directed at an individual on the basis of sex.

(d) “Visual sexual harassment” includes, but is not limited to, derogatory posters, cartoons, drawings, obscene gestures, or computer-generated images of a sexual nature.

(e) “Educational environment” includes, but is not limited to, the following:

(1) The campus or school grounds of the local agency.

(2) Properties controlled or owned by the local agency.

(3) Off-campus, if such activity is sponsored by the local agency, or is conducted by organizations sponsored by or under the jurisdiction of the local agency.

#### **5 CCR § 4917. Notification requirements.**

Local agencies are required to notify students, employees, and parents of their written policy prohibiting sexual harassment pursuant to Education Code sections 231.5 and 48980(h), and in accordance with Education Code section 48985. These policies shall include information as to where to obtain specific procedures for reporting charges of sexual harassment and available remedies.

#### **5 CCR § 4963. Prohibitions.**

(a) No person from or in the educational or work environment of a local agency shall retaliate against a complainant, witness, or other person who supports or participates in a sexual harassment investigation.

(b) Any attempt to penalize anyone from or in the educational or employment environment for initiating a complaint through any form of retaliation shall be treated as a separate allegation of discrimination.

#### **5 CCR § 4964. Confidentiality.**

All complaints or allegations of discrimination or sexual harassment will be kept confidential during any informal and/or formal complaint procedures except when disclosure is necessary during the course of an investigation, in order to take subsequent remedial action and to conduct ongoing monitoring.

#### **5 CCR § 4965. Disciplinary action.**

Harassment on the basis of sex, sexual orientation, gender, ethnic group identification, race, ancestry, national origin, religion, color, or mental or physical disability is a form of discrimination, and as such, may result in disciplinary or other action taken by the local agency. In the case of an employee, such disciplinary action may include termination. For students in Grades K-12, the disciplinary consequences shall depend on the ages of the students and the factual circumstances of the incident(s).

## **Other special infractions or conditions**

### **LAWS**

#### **EDN 32261.**

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900

**EDN 32282.**

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:

(F) The provisions of any schoolwide dress code, pursuant to Section 35183, that prohibits pupils from wearing "gang-related apparel," if the school has adopted that type of a dress code. For those purposes, the comprehensive school safety plan shall define "gang-related apparel." The definition shall be limited to apparel that, if worn or displayed on a school campus, reasonably could be determined to threaten the health and safety of the school environment. Any schoolwide dress code established pursuant to this section and Section 35183 shall be enforced on the school campus and at any school-sponsored activity by the principal of the school or the person designated by the principal. For purposes of this paragraph, "gang-related apparel" shall not be considered a protected form of speech pursuant to Section 48950.

**EDN 48900.**

A pupil shall not be suspended from school or recommended for expulsion, unless the superintendent of the school district or the principal of the school in which the pupil is enrolled determines that the pupil has committed an act as defined pursuant to any of subdivisions (a) to (r), inclusive:

(a) (1) Caused, attempted to cause, or threatened to cause physical injury to another person.

(2) Willfully used force or violence upon the person of another, except in self-defense.

(e) Committed or attempted to commit robbery or extortion.

(f) Caused or attempted to cause damage to school property or private property.

(g) Stole or attempted to steal school property or private property.

(i) Committed an obscene act or engaged in habitual profanity or vulgarity.

(k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

(2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12,

inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.

(l) Knowingly received stolen school property or private property.

(n) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a, or 289 of the Penal Code or committed a sexual battery as defined in Section 243.4 of the Penal Code.

(o) Harassed, threatened, or intimidated a pupil who is a complaining witness or a witness in a school disciplinary proceeding for purposes of either preventing that pupil from being a witness or retaliating against that pupil for being a witness, or both.

#### **EDN 48900.2.**

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

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

#### **EDN 48900.3.**

In addition to the reasons set forth in Sections 48900 and 48900.2, a pupil in any of grades 4 to 12, inclusive, may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in subdivision (e) of Section 233.

#### **EDN 48900.7**

(a) In addition to the reasons specified in Sections 48900, 48900.2, 48900.3, and 48900.4, a pupil may be suspended from school or recommended for expulsion if the superintendent or the principal of the school in which the pupil is enrolled determines that the pupil has made terroristic threats against school officials or school property, or both.

(b) For the purposes of this section, "terroristic threat" shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of one thousand dollars (\$1,000), with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, or for the protection of school district property, or the personal property of the person threatened or his or her immediate family.

#### **EDN 48901.5.**

(a) The governing board of each school district, or its designee, may regulate the possession or use of any electronic signaling device that operates through the transmission or receipt of radio waves, including, but not limited to, paging and signaling equipment, by pupils of the school district while the

pupils are on campus, while attending school-sponsored activities, or while under the supervision and control of school district employees.

(b) No pupil shall be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of the pupil and use of which is limited to purposes related to the health of the pupil.

#### **EDN 48904.**

(a) (1) Notwithstanding Section 1714.1 of the Civil Code, the parent or guardian of any minor whose willful misconduct results in injury or death to any pupil or any person employed by, or performing volunteer services for, a school district or private school or who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor. The liability of the parent or guardian shall not exceed ten thousand dollars (\$10,000), adjusted annually for inflation. The parent or guardian shall be liable also for the amount of any reward not exceeding ten thousand dollars (\$10,000), adjusted annually for inflation, paid pursuant to Section 53069.5 of the Government Code. The parent or guardian of a minor shall be liable to a school district or private school for all property belonging to the school district or private school loaned to the minor and not returned upon demand of an employee of the school district or private school authorized to make the demand.

(2) The Superintendent annually shall compute an adjustment of the liability limits prescribed by this subdivision to reflect the percentage change in the average annual value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the prior fiscal year. The annual adjustment shall be rounded to the nearest one hundred dollars (\$100).

(b) (1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the school district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).

(2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.

#### **EDN 48907.**

(a) Pupils of the public schools, including charter schools, 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, whether or not the publications or other means of expression are supported financially by the school or by use of school facilities, except that expression shall be prohibited which is obscene, libelous, or slanderous. Also prohibited shall be material that so incites pupils as to create a



clear and present danger of the commission of unlawful acts on school premises or the violation of lawful school regulations, or the substantial disruption of the orderly operation of the school.

(b) The governing board or body of each school district or charter school and each county board of education shall adopt rules and regulations in the form of a written publications code, which shall include reasonable provisions for the time, place, and manner of conducting such activities within its respective jurisdiction.

(c) Pupil editors of official school publications shall be responsible for assigning and editing the news, editorial, and feature content of their publications subject to the limitations of this section. However, it shall be the responsibility of a journalism adviser or advisers of pupil publications within each school to supervise the production of the pupil staff, to maintain professional standards of English and journalism, and to maintain the provisions of this section.

(d) There shall be no prior restraint of material prepared for official school publications except insofar as it violates this section. School officials shall have the burden of showing justification without undue delay prior to a limitation of pupil expression under this section.

(e) "Official school publications" refers to material produced by pupils in the journalism, newspaper, yearbook, or writing classes and distributed to the student body either free or for a fee.

(f) This section does not prohibit or prevent the governing board or body of a school district or charter school from adopting otherwise valid rules and regulations relating to oral communication by pupils upon the premises of each school.

(g) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

#### **EDN 48909.**

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

#### **EDN 48915.**

(a) (1) Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

(A) Causing serious physical injury to another person, except in self-defense.

(D) Robbery or extortion.

(E) Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.

(h) As used in this section, the term “explosive” means “destructive device” as described in Section 921 of Title 18 of the United States Code.

**EDN 49330.**

(a) (1) As used in this article “injurious object” shall mean those objects specified in the following sections:

(A) Section 16250 of the Penal Code.

(B) Subdivisions (a) to (d), inclusive of Section 16520 of the Penal Code.

(C) Section 16590 of the Penal Code.

(D) Section 16880 of the Penal Code.

(E) Section 17235 of the Penal Code.

(F) Section 17240 of the Penal Code.

(G) Section 17250 of the Penal Code.

(2) As used in this article, “injurious object” shall also mean objects capable of inflicting substantial bodily damage, not necessary for the academic purpose of the pupil.

(b) As used in this section, “academic purpose” means any school sponsored activity or class of instruction scheduled during the schoolday.

(c) “Injurious object” does not include any personal possessions or items of apparel which a schoolage child reasonably may be expected either to have in his or her possession or to wear.

**EDN 49331.**

Any certificated employee of any school district and any classified employee of a school district who is designated by the governing board for such purposes may take from the personal possession of any pupil upon school premises or while under the authority of school personnel any injurious object in the possession of the pupil.

**EDN 49332.**

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

**EDN 49333.**

Notwithstanding Section 49332, a pupil who brings an injurious object to school, and who presents the object to a certificated or classified employee, may have the object returned to him or her at the conclusion of the school day, provided such injurious object may be lawfully possessed off school grounds.

## **REGULATIONS**

No relevant regulations found.

## ***Prevention and Behavioral Interventions (Non-Punitive)***

### **Prevention**

#### **LAWS**

##### **EDN 233.**

(a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

- (1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.
- (2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.
- (3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.
- (4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.
- (5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.
- (6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.
- (7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

- (1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.
- (2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).
- (3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

**EDN 233.5.**

(a) Each teacher shall endeavor to impress upon the minds of the pupils the principles of morality, truth, justice, patriotism, and a true comprehension of the rights, duties, and dignity of American citizenship, and the meaning of equality and human dignity, including the promotion of harmonious relations, kindness toward domestic pets and the humane treatment of living creatures, to teach them to avoid idleness, profanity, and falsehood, and to instruct them in manners and morals and the principles of a free government.

(b) Each teacher is also encouraged to create and foster an environment that encourages pupils to realize their full potential and that is free from discriminatory attitudes, practices, events, or activities, in order to prevent acts of hate violence, as defined in subdivision (e) of Section 233.

**EDN 233.8.**

(a) The State Department of Education shall provide regional training to assist school district personnel in the identification and determination of hate violence on school campuses.

(b) (1) A grant program for school districts shall be established by the department for the purpose of enabling pupils and teachers to participate in educational programs focused on fostering ethnic sensitivity, overcoming racism and prejudice, and countering hatred and intolerance. It is the intent of the Legislature that the grants be awarded on a competitive basis with similar sized school districts and county offices of education competing against each other for grant funds. The Superintendent of Public Instruction shall establish grant competition bands as follows:

(A) Districts with less than 2,501 average daily attendance.

(B) Districts with more than 2,500 average daily attendance but less than 5,001.

(C) Districts with more than 5,000 average daily attendance but less than 15,001.

(D) Districts with more than 15,000 average daily attendance but less than 30,001.

(E) Districts with more than 30,000 average daily attendance.

(F) County offices of education.

(2) The Superintendent of Public Instruction shall allocate the appropriated funds for competitive grants to each of the competitive bands based on the amount of average daily attendance in all districts in the competitive range compared to the statewide average daily attendance in all school districts and county offices of education.

The grant program is not required to be implemented under this section unless funds are appropriated for that purpose.

**EDN 32265.**

(a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law enforcement agencies to identify exemplary programs and techniques that have been effectively used to

reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

- (b) The conference may include, but need not be limited to, information on all of the following topics:
- (1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.
  - (2) School attendance.
  - (3) School safety.
  - (4) Citizenship education.
  - (5) Drug and alcohol abuse.
  - (6) Child abuse prevention, detection, and reporting.
  - (7) Parental education.
  - (8) Crisis response training.
  - (9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.
  - (10) Threat assessment.
  - (11) Conflict resolution and youth mediation.
  - (12) Teen relationship violence.
  - (13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.
  - (14) Hate crime reporting and prevention.
  - (15) Reporting and prevention of abuse against pupils with disabilities.

**EDN 32282.5.**

The department shall develop an online training module to assist all school staff, school administrators, parents, pupils, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. The online training module shall include, but is not limited to, identifying an act of bullying or cyberbullying, and implementing strategies to address bullying and cyberbullying.

**EDN 48264.5.**

(d) The fourth time a truancy is issued within the same school year, the pupil may be within the jurisdiction of the juvenile court that may adjudge the pupil to be a ward of the court pursuant to Section 601 of the Welfare and Institutions Code. If the pupil is adjudged a ward of the court, the pupil shall be required to do one or more of the following:

- (3) Attendance of a court-approved truancy prevention program.

**EDN 48901.**

(a) No school shall permit the smoking or use of tobacco, or any product containing tobacco or nicotine products, by pupils of the school while the pupils are on campus, or while attending school-sponsored activities or while under the supervision and control of school district employees.

(b) The governing board of any school district maintaining a high school shall take all steps it deems practical to discourage high school students from smoking.

**EDN 51210.5.**

The instruction in all areas of study specified in subdivisions (a) to (g), inclusive, of Section 51210 as deemed appropriate by the governing board and consistent with the adopted course of study for each

subject area, may include grade-level appropriate instruction on violence awareness and prevention, which may include personal testimony in the form of oral or video histories that illustrate the economic and cultural effects of violence within a city, the state, and the country.

**EDN 51220.1**

In addition to the requirements specified in subdivision (j) of Section 51220, automobile driver education shall be designed to develop a knowledge of the dangers involved in consuming alcohol or drugs in connection with the operation of a motor vehicle.

**EDN 51220.3**

The instruction in all areas of study specified in subdivisions (a) to (j), inclusive, of Section 51220 as deemed appropriate by the governing board and consistent with the adopted course of study for each subject area, may include grade-level appropriate instruction on violence awareness and prevention, which may include personal testimony in the form of oral or video histories that illustrate the economic and cultural effects of violence within a city, the state, and the country.

**EDN 51262.**

The Legislature hereby finds and declares that the use of anabolic steroids to expedite the physical development and to enhance the performance level of secondary school athletes presents a serious health hazard to these student athletes. It is the intent of the Legislature in enacting this measure that, beginning with the 1987–88 school year, schools be encouraged to include in instruction in grades 7 to 12, inclusive, in science, health, drug abuse, or physical education programs a lesson on the effects of the use of anabolic steroids.

**EDN 51263.**

The State Department of Education shall make available information on model drug and alcohol abuse prevention education programs developed and funded pursuant to Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, Chapter 7 (commencing with Section 13860) of Title 6 of Part 4 of the Penal Code, and other public and private sources.

**EDN 51264.**

(a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.

(b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.

(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 5 (commencing with Section 32280) of Chapter 2.5 of Part 19, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Emergency Services regarding gang violence.

#### **EDN 51265.**

It is the intent of the Legislature that school districts and county offices of education give high priority to gang violence and drug and alcohol abuse prevention in-service training programs, which shall be part of the overall strategy for comprehensive gang violence and drug and alcohol abuse prevention education.

“Gang violence and drug and alcohol abuse prevention in-service training” for purposes of this article means the presentation of programs, instruction and curricula that will help educators develop competencies in interacting in a positive manner with children and youth to assist them in developing the positive values, self-esteem, knowledge, and skills to lead productive, gang-free and drug-free lives; develop knowledge of the causes of gang violence and substance abuse, and the properties and effects of tobacco, alcohol, narcotics, and dangerous drugs, including the risk of contracting acquired immune deficiency syndrome (AIDS) associated with intravenous drug use; receive training regarding available information and resources concerning gang violence and drug and alcohol abuse prevention as well as antigang and antisubstance abuse crime trends; develop familiarity with teaching social skills and resistance skills to children and youth; and develop skills in conducting effective education, which includes methods and techniques for helping children and youth to freely express ideas and opinions in a responsible manner and to understand the nature and consequences of their decisions as they relate to gang involvement and drug and alcohol abuse.

#### **EDN 51269.**

(a) The State Department of Education shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for state and federal drug, alcohol, and tobacco education funds.

(b) The State Department of Education, in consultation with the Department of Justice, Office of Emergency Services, the State Department of Public Health, and the State Department of Health Care Services, shall develop, to the extent possible, an ongoing statewide monitoring and assessment system to provide current and reliable data on the utilization of resources for programs for prevention of and early intervention for drug, alcohol, and tobacco abuse. The purpose of the system shall be to facilitate improved planning and program delivery among state and local agencies, including law enforcement, juvenile justice, county health, and county drug and alcohol agencies and programs, and communities.

### **REGULATIONS**

#### **5 CCR § 11987. Purpose.**

(a) These regulations fulfill a mandate of Education Code section 41513, which requires the State Superintendent of Public Instruction (SSPI) and the Attorney General to adopt regulations to implement the School Safety Consolidated Competitive Grant program established by sections 41510 through 41514 of the Education Code. This program consists of two competitive grant programs, which are hereinafter referred to as the School Community Violence Prevention (SCVP) Grant program and the School Safety



and Violence Prevention Training Grant Program. The regulations shall specify application submission rules, criteria for scoring applications and awarding grants, allowable/non-allowable uses of grant funds, annual reporting requirements for grant recipients, and the manner in which grant recipients will be reimbursed for program expenditures.

(b) The program shall be jointly administered by the SSPI and the Attorney General's Office, through the School Law Enforcement Partnership (S/LEP), as authorized by Education Code section 32262.

## **Behavioral interventions and student support services**

### **LAWS**

#### **EDN 234.5.**

The Superintendent shall post, and annually update, on the department's Internet Web site and provide to each school district a list of statewide resources, including community-based organizations, that provide support to youth who have been subjected to school-based discrimination, harassment, intimidation, or bullying, and their families. The department's Internet Web site shall also include a list of statewide resources for youth who have been affected by gangs, gun violence, and psychological trauma caused by violence at home, at school, and in the community.

#### **EDN 32282.1.**

(a) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district uses these people.

(b) The guidelines developed pursuant to subdivision (a) are encouraged to include both of the following:

(1) Primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.

(2) Consistent with paragraph (2) of subdivision (a) of Section 32282, protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:

(A) While on school grounds.

(B) While going to or coming from school.

(C) During a lunch period whether on or off campus.

(D) During, or while going to or coming from, a school-sponsored activity.

#### **EDN 48264.5.**

A minor who is classified as a truant pursuant to Section 48260 or 48261 may be required to attend makeup classes conducted on one day of a weekend pursuant to subdivision (c) of Section 37223 and is subject to the following:

(a) The first time a truancy report is issued, the pupil and, as appropriate, the parent or legal guardian, may be requested to attend a meeting with a school counselor or other school designee to discuss the root causes of the attendance issue and develop a joint plan to improve the pupil's attendance.

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or

transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

#### **EDN 48265.**

Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

#### **EDN 48900.5**

(a) Suspension, including supervised suspension as described in Section 48911.1, shall be imposed only when other means of correction fail to bring about proper conduct. A school district may document the other means of correction used and place that documentation in the pupil's record, which may be accessed pursuant to Section 49069. However, a pupil, including an individual with exceptional needs, as defined in Section 56026, may be suspended, subject to Section 1415 of Title 20 of the United States Code, for any of the reasons enumerated in Section 48900 upon a first offense, if the principal or superintendent of schools determines that the pupil violated subdivision (a), (b), (c), (d), or (e) of Section 48900 or that the pupil's presence causes a danger to persons.

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

- (1) A conference between school personnel, the pupil's parent or guardian, and the pupil.
- (2) Referrals to the school counselor, psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling.
- (3) Study teams, guidance teams, resource panel teams, or other intervention-related teams that assess the behavior, and develop and implement individualized plans to address the behavior in partnership with the pupil and his or her parents.
- (4) Referral for a comprehensive psychosocial or psychoeducational assessment, including for purposes of creating an individualized education program, or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)).
- (5) Enrollment in a program for teaching prosocial behavior or anger management.
- (6) Participation in a restorative justice program.
- (7) A positive behavior support approach with tiered interventions that occur during the schoolday on campus.
- (8) After-school programs that address specific behavioral issues or expose pupils to positive activities and behaviors, including, but not limited to, those operated in collaboration with local parent and community groups.
- (9) Any of the alternatives described in Section 48900.6.

**EDN 48900.9.**

(a) The superintendent of a school district, the principal of a school, or the principal's designee may refer a victim of, witness to, or other pupil affected by, an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, committed on or after January 1, 2015, to the school counselor, school psychologist, social worker, child welfare attendance personnel, school nurse, or other school support service personnel for case management, counseling, and participation in a restorative justice program, as appropriate.

(b) A student who has engaged in an act of bullying, as defined in paragraph (1) of subdivision (r) of Section 48900, may also be referred to the school counselor, school psychologist, social worker, child welfare attendance personnel, or other school support service personnel for case management and counseling, or for participation in a restorative justice program, pursuant to Section 48900.5.

**EDN 48911.2.**

(a) If the number of pupils suspended from school during the prior school year exceeded 30 percent of the school's enrollment, the school should consider doing at least one of the following:

(2) Implement an alternative to the school's off-campus suspension program, which involves a progressive discipline approach that occurs during the schoolday on campus, using any of the following activities:

(A) Conferences between the school staff, parents, and pupils.

(B) Referral to the school counselor, psychologist, child welfare attendance personnel, or other school support service staff.

(C) Detention.

(D) Study teams, guidance teams, resource panel teams, or other assessment-related teams.

(c) It is the intent of the Legislature to encourage schools that choose to implement this section to examine alternatives to off-campus suspensions that lead to resolution of pupil misconduct without sending pupils off campus. Schools that use this section should not be precluded from suspending pupils to an off-campus site.

**EDN 48916.**

(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

**EDN 48917.**

(a) The governing board, upon voting to expel a pupil, may suspend the enforcement of the expulsion order for a period of not more than one calendar year and may, as a condition of the suspension of enforcement, assign the pupil to a school, class, or program that is deemed appropriate for the rehabilitation of the pupil. The rehabilitation program to which the pupil is assigned may provide for the involvement of the pupil's parent or guardian in his or her child's education in ways that are specified in the rehabilitation program. A parent or guardian's refusal to participate in the rehabilitation program shall not be considered in the governing board's determination as to whether the pupil has satisfactorily completed the rehabilitation program.

(b) The governing board shall apply the criteria for suspending the enforcement of the expulsion order equally to all pupils, including individuals with exceptional needs as defined in Section 56026.

(c) During the period of the suspension of the expulsion order, the pupil is deemed to be on probationary status.

(d) The governing board may revoke the suspension of an expulsion order under this section if the pupil commits any of the acts enumerated in Section 48900 or violates any of the district's rules and regulations governing pupil conduct. When the governing board revokes the suspension of an expulsion order, a pupil may be expelled under the terms of the original expulsion order.

(e) Upon satisfactory completion of the rehabilitation assignment of a pupil, the governing board shall reinstate the pupil in a school of the district and may also order the expungement of any or all records of the expulsion proceedings.

(f) A decision of the governing board to suspend an expulsion order does not affect the time period and requirements for the filing of an appeal of the expulsion order with the county board of education required under Section 48919. Any appeal shall be filed within 30 days of the original vote of the governing board.

#### **EDN 56520.**

(b) It is the intent of the Legislature:

- (1) That children exhibiting serious behavioral challenges receive timely and appropriate assessments and positive supports and interventions in accordance with the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and its implementing regulations.

#### **EDN 56521.2.**

(b) In the case of a child whose behavior impedes the child's learning or that of others, the individualized education program team shall consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior, consistent with Section 1414(d)(3)(B)(i) and (d)(4) of Title 20 of the United States Code and associated federal regulations.

### **REGULATIONS**

No relevant regulations found.

## **Professional development**

### **LAWS**

#### **EDN 233.8.**

(a) The State Department of Education shall provide regional training to assist school district personnel in the identification and determination of hate violence on school campuses.

(b) (1) A grant program for school districts shall be established by the department for the purpose of enabling pupils and teachers to participate in educational programs focused on fostering ethnic sensitivity, overcoming racism and prejudice, and countering hatred and intolerance. It is the intent of the Legislature that the grants be awarded on a competitive basis with similar sized school districts and county offices of education competing against each other for grant funds. The Superintendent of Public Instruction shall establish grant competition bands as follows:

- (A) Districts with less than 2,501 average daily attendance.
- (B) Districts with more than 2,500 average daily attendance but less than 5,001.
- (C) Districts with more than 5,000 average daily attendance but less than 15,001.
- (D) Districts with more than 15,000 average daily attendance but less than 30,001.
- (E) Districts with more than 30,000 average daily attendance.

(F) County offices of education.

(2) The Superintendent of Public Instruction shall allocate the appropriated funds for competitive grants to each of the competitive bands based on the amount of average daily attendance in all districts in the competitive range compared to the statewide average daily attendance in all school districts and county offices of education.

The grant program is not required to be implemented under this section unless funds are appropriated for that purpose.

**EDN 32282.5.**

The department shall develop an online training module to assist all school staff, school administrators, parents, pupils, and community members in increasing their knowledge of the dynamics of bullying and cyberbullying. The online training module shall include, but is not limited to, identifying an act of bullying or cyberbullying, and implementing strategies to address bullying and cyberbullying.

**EDN 32283.**

The Department of Justice and the State Department of Education, in accordance with Section 32262, shall contract with one or more professional trainers to coordinate statewide workshops for school districts, county offices of education, and schoolsite personnel, and in particular school principals, to assist them in the development of their respective school safety and crisis response plans, and provide training in the prevention of bullying as defined in subdivision (r) of Section 48900. The Department of Justice and the State Department of Education shall work in cooperation with regard to the workshops coordinated and presented pursuant to the contracts. Implementation of this section shall be contingent upon the availability of funds in the annual Budget Act.

**EDN 51265.**

It is the intent of the Legislature that school districts and county offices of education give high priority to gang violence and drug and alcohol abuse prevention in-service training programs, which shall be part of the overall strategy for comprehensive gang violence and drug and alcohol abuse prevention education.

“Gang violence and drug and alcohol abuse prevention in-service training” for purposes of this article means the presentation of programs, instruction and curricula that will help educators develop competencies in interacting in a positive manner with children and youth to assist them in developing the positive values, self-esteem, knowledge, and skills to lead productive, gang-free and drug-free lives; develop knowledge of the causes of gang violence and substance abuse, and the properties and effects of tobacco, alcohol, narcotics, and dangerous drugs, including the risk of contracting acquired immune deficiency syndrome (AIDS) associated with intravenous drug use; receive training regarding available information and resources concerning gang violence and drug and alcohol abuse prevention as well as antigang and antisubstance abuse crime trends; develop familiarity with teaching social skills and resistance skills to children and youth; and develop skills in conducting effective education, which includes methods and techniques for helping children and youth to freely express ideas and opinions in a responsible manner and to understand the nature and consequences of their decisions as they relate to gang involvement and drug and alcohol abuse.

**EDN 56520.**

(b) It is the intent of the Legislature:

(5) That training programs be developed and implemented in institutions of higher education that train teachers and that in-service training programs be made available as necessary in school districts and county offices of education to ensure that adequately trained staff are available to work effectively with the behavioral intervention needs of individuals with exceptional needs.

**EDN 56524.**

The superintendent shall explore with representatives of institutions of higher education and the Commission on Teacher Credentialing, the current training requirements for teachers to ensure that sufficient training is available in appropriate behavioral interventions for people entering the field of education.

**REGULATIONS**

No relevant regulations found.

## ***Monitoring and Accountability***

### **Formal incident reporting of conduct violations**

#### **LAWS**

##### **EDN 32282.**

- (a) The comprehensive school safety plan shall include, but not be limited to, both of the following:
- (2) Identifying appropriate strategies and programs that will provide or maintain a high level of school safety and address the school's procedures for complying with existing laws related to school safety, which shall include the development of all of the following:
    - (D) Procedures to notify teachers of dangerous pupils pursuant to Section 49079.

##### **EDN 48202.**

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

- (a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.
- (b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.
- (c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

##### **EDN 48261.**

Any pupil who has once been reported as a truant and who is again absent from school without valid excuse one or more days, or tardy on one or more days, shall again be reported as a truant to the attendance supervisor or the superintendent of the district.

##### **EDN 48273.**

The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

##### **EDN 48900.8.**

For purposes of notification to parents, and for the reporting of expulsion or suspension offenses to the department, each school district shall specifically identify, by offense committed, in all appropriate official

records of a pupil each suspension or expulsion of that pupil for the commission of any of the offenses set forth in Section 48900, 48900.2, 48900.3, 48900.4, 48900.7, or 48915.

**EDN 48911.**

(e) A school employee shall report the suspension of the pupil, including the cause for the suspension, to the governing board of the school district or to the district superintendent of schools in accordance with the regulations of the governing board of the school district.

**EDN 48916.1.**

(e) (1) Each school district shall maintain the following data:

- (A) The number of pupils recommended for expulsion.
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

**EDN 56521.1.**

(f) All behavioral emergency reports shall immediately be forwarded to, and reviewed by, a designated responsible administrator.

(g) If a behavioral emergency report is written regarding an individual with exceptional needs who does not have a behavioral intervention plan, the designated responsible administrator shall, within two days, schedule an individualized education program (IEP) team meeting to review the emergency report, to determine the necessity for a functional behavioral assessment, and to determine the necessity for an interim plan. The IEP team shall document the reasons for not conducting the functional behavioral assessment, not developing an interim plan, or both.

(h) If a behavioral emergency report is written regarding an individual with exceptional needs who has a positive behavioral intervention plan, an incident involving a previously unseen serious behavior problem, or where a previously designed intervention is ineffective, shall be referred to the IEP team to review and determine if the incident constitutes a need to modify the positive behavioral intervention plan.

**REGULATIONS**

**5 CCR § 4610. Purpose and scope.**

(a) This Chapter applies to the filing, investigation and resolution of a complaint regarding an alleged violation by a local agency of federal or state law or regulations governing educational programs, including allegations of unlawful discrimination, harassment, intimidation or bullying. The purpose of this



chapter is to establish a uniform system of complaint processing for specified programs or activities that receive state or federal funding.

**5 CCR § 4620. LEA responsibilities.**

Each LEA shall have the primary responsibility to insure compliance with applicable state and federal laws and regulations. Each LEA shall investigate complaints alleging failure to comply with applicable state and federal laws and regulations and/or alleging discrimination, harassment, intimidation or bullying and seek to resolve those complaints in accordance with the procedures set out in this chapter and in accordance with the policies and procedures of the governing board.

**5 CCR § 4621. District policies and procedures.**

(a) Each LEA shall adopt policies and procedures not inconsistent with sections 4600-4695 of this chapter for the investigation and resolution of complaints. Local policies shall ensure that complainants are protected from retaliation and that the identity of a complainant alleging discrimination, harassment, intimidation or bullying remain confidential as appropriate. School Districts and County Offices of Education shall submit their policies and procedures to the local governing board for adoption.

(b) Each LEA shall include in its policies and procedures the person(s), employee(s) or agency position(s) or unit(s) responsible for receiving complaints, investigating complaints and ensuring LEA compliance. The LEA's policies shall ensure that the person(s), employee(s), position(s) or unit(s) responsible for compliance and/or investigations shall be knowledgeable about the laws/programs that he/she is assigned to investigate.

(c) Except for complaints under sections 4680-4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, the LEA may provide a complaint form for persons wishing to file a complaint to fill out and file. A complaint form shall be provided for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments. However, a person is not required to use the complaint form furnished by the LEA in order to file a complaint.

**5 CCR § 4622. Notice.**

Each LEA shall annually notify in writing, as applicable, its students, employees, parents or guardians of its students, the district advisory committee, school advisory committees, appropriate private school officials or representatives, and other interested parties of their LEA complaint procedures, including the opportunity to appeal to the CDE and the provisions of this chapter. The notice shall include the identity (identities) of the person(s) responsible for processing complaints. The notice shall also advise the recipient of any civil law remedies that may be available under state or federal discrimination, harassment, intimidation or bullying laws, if applicable, and of the appeal pursuant to Education Code section 262.3. The notice shall also include information regarding the requirements of Education Code sections 49010 through 49013 relating to pupil fees. This notice shall be in English, and when necessary, in the primary language, pursuant to Education Code section 48985, or mode of communication of the recipient of the notice. Copies of LEA complaint procedures shall be available free of charge.

**5 CCR § 4630. Filing a local complaint: Procedures, time lines.**

(a) Except for complaints under sections 4680-4687 regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, and complaints that allege discrimination, harassment, intimidation or bullying and complaints regarding pupil fees, any individual, public agency or organization may file a written complaint with the district superintendent or his or her designee alleging a matter which, if true,

would constitute a violation by that LEA of federal or state law or regulation governing a program listed in section 4610(b) of this chapter.

(b) An investigation of alleged unlawful discrimination, harassment, intimidation or bullying shall be initiated by filing a complaint not later than six months from the date the alleged discrimination, harassment, intimidation or bullying occurred, or the date the complainant first obtained knowledge of the facts of the alleged discrimination, harassment, intimidation or bullying unless the time for filing is extended by the district superintendent or his or her designee, upon written request by the complainant setting forth the reasons for the extension. Such extension by the district superintendent or his or her designee shall be made in writing. The period for filing may be extended by the district superintendent or his or her designee for good cause for a period not to exceed 90 days following the expiration of the six month time period. The district superintendent shall respond immediately upon a receipt of a request for extension.

(1) The complaint shall be filed by one who alleges that he or she has personally suffered unlawful discrimination, harassment, intimidation or bullying, or by one who believes an individual or any specific class of individuals has been subjected to discrimination, harassment, intimidation or bullying prohibited by this part.

(2) The complaint shall be filed with the LEA in accordance with the complaint procedures of the LEA.

(3) An investigation of a discrimination, harassment, intimidation or bullying complaint shall be conducted in a manner that protects confidentiality of the parties and maintains the integrity of the process.

(c)(1) Pupil fee complaints may be filed with the principal of the school.

(2) Pupil fee complaints shall be filed not later than one year from the date the alleged violation occurred.

(3) Pupil fee complaints may be filed anonymously if the complaint provides evidence or information leading to evidence to support an allegation of noncompliance with Education Code sections 49010 and 49011 regarding pupil fees.

#### **5 CCR § 4631. Responsibilities of the LEA.**

(a) Except for complaints regarding instructional materials, emergency or urgent facilities conditions that pose a threat to the health or safety of pupils or staff, and teacher vacancies or misassignments, which must be processed in accordance with sections 4680-4687, within 60 days from the date of the receipt of the complaint, the LEA person responsible for the investigation of the complaints or his or her designee shall conduct and complete an investigation of the complaint in accordance with the local procedures adopted pursuant to section 4621 and prepare a written LEA Decision. This time period may be extended by written agreement of the complainant.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the LEA to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation, may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

(e) The LEA should issue a Decision (the Decision) based on the evidence. The Decision shall be in writing and sent to the complainant within 60 days from receipt of the complaint by the LEA. The Decision should contain:

- (1) the findings of fact based on the evidence gathered,
- (2) conclusion of law,
- (3) disposition of the complaint,
- (4) the rationale for such disposition,
- (5) corrective actions, if they are warranted, including, with respect to a pupil fee complaint, a remedy that comports with Education Code section 49013(d) and section 4600(u).
- (6) notice of the complainant's right to appeal the LEA Decision to the CDE, and
- (7) procedures to be followed for initiating an appeal to the CDE.

(f) Nothing in this chapter shall prohibit the parties from utilizing alternative methods to resolve the allegations in the complaint, including, but not limited to, mediation.

(g) Nothing in this chapter shall prohibit an LEA from resolving complaints prior to the formal filing of a written complaint.

#### **5 CCR § 4632. Appeal of LEA decision - Grounds.**

(a) Except for complaints under sections 4681 and 4682 regarding instructional materials and teacher vacancies or misassignments, a complainant may appeal a Decision to the CDE by filing a written appeal within 15 days of receiving the Decision.

(b) The complainant shall specify the basis for the appeal of the Decision and whether the facts are incorrect and/or the law is misapplied.

(c) The appeal shall be accompanied by:

- (1) a copy of the locally filed complaint; and
- (2) a copy of the Decision.

(d) If the CDE determines the appeal raises issues not contained in the local complaint, the CDE will refer those new issues back to the LEA for resolution as a new complaint under section 4630 or 4631.

(e) If the CDE determines that the Decision failed to address an issue raised by the complaint, the CDE shall refer the matter to the LEA to make the necessary findings and conclusions on any issue not addressed. The LEA will address the issue within 20 days from the date of the referral.

#### **5 CCR § 4633. Appeal of LEA decision.**

(a) If the Decision is appealed, the CDE shall notify the LEA of the appeal. Upon notification by the CDE that the Decision has been appealed, the LEA shall forward the following to the CDE:

- (1) A copy of the original complaint;
- (2) A copy of the Decision;
- (3) A summary of the nature and extent of the investigation conducted by the LEA, if not covered in the Decision;
- (4) A copy of the investigation file, including but not limited to, all notes, interviews and documents submitted by the parties or gathered by the investigator;
- (5) A report of any action taken to resolve the complaint;
- (6) A copy of the LEA complaint procedures; and
- (7) Such other relevant information as the CDE may request.

- (b) The CDE shall not receive evidence from the parties that could have been presented to the LEA investigator during the investigation, unless requested by the CDE. Any confidential information or pupil information in the investigative file shall remain confidential and shall not be disclosed by the CDE.
- (c) The CDE may contact the parties for further information, if necessary.
- (d) The CDE shall review the investigation file, the summary of the nature and extent of the investigation conducted by the LEA, the complaint procedures, documents and any other evidence received from the LEA and determine whether substantial evidence exists:
- (1) That the LEA followed its complaint procedures; and
  - (2) That the relevant findings of fact in the Decision which are the subject of the appeal are supported by the evidence.
- (e) The CDE shall review the conclusions of law which are the subject of the appeal and determine whether they are correct.
- (f) If the CDE determines that the Decision is deficient because it lacks findings of fact and conclusions of law regarding the subject of the appeal, the CDE may return the Decision to the LEA in order to correct the deficiencies within 20 days of the return.
- (g) If the CDE finds that the Decision is supported by substantial evidence, and that the legal conclusions are not contrary to law, the appeal shall be denied.
- (h) If the CDE finds the grounds for the appeal have merit:
- (1) The CDE may, if there is a lack of substantial evidence or a procedural defect in the investigation, remand the investigation to the LEA for further investigation of the allegations which are the subject of the appeal; or
  - (2) The CDE may issue a decision based on the evidence in the investigation file received from the LEA; or
  - (3) If the CDE determines that it is in the best interest of the parties, conduct a further investigation of the allegations which are the basis for the appeal and issue a decision following further investigation.
- (i) If the CDE finds merit in the appeal, the CDE's decision on appeal shall contain the following:
- (1) A finding that the LEA complied or did not comply with its complaint procedures;
  - (2) The CDE's findings of fact and conclusions of law regarding the issue on appeal; and
  - (3) Where a determination is made that the LEA failed to comply with the applicable state or federal law or regulation, remedial orders and/or required actions to address the violation(s), including, with respect to a pupil fee complaint, a remedy that specifies the LEA's obligation to comply with Education Code section 49013(d) and section 4600(u).
- (j) The CDE must issue a written decision regarding an appeal of a pupil fee complaint and provide a copy of the written decision to the appellant within 60 days of the CDE's receipt of the appeal.

**5 CCR § 4640. Filing a state complaint that has not first been filed at the Local Educational Agency (LEA); Time lines, notice, appeal rights.**

Referral to the LEA for Local Resolution.

- (a) If a complaint is erroneously filed with the CDE without first being filed with and investigated by the LEA, the CDE shall immediately forward the complaint to the LEA for processing in accordance with article 4 of this chapter, unless extraordinary circumstances exist necessitating direct state intervention as described at section 4650.
- (b) A letter shall be sent by first class mail to the complainant(s) notifying him, her, or them that:

- (1) The CDE does not have jurisdiction, at this time, over the complaint and that the complaint should have been filed with the LEA in the first instance;
- (2) That the complaint has been transferred to the local educational agency requesting the local educational agency to process and investigate the allegation in the complaint; and
- (3) That the complainant may file an appeal to the CDE following the issuance of the Decision, if he or she believes as a matter of fact or law the Decision is incorrect.

**5 CCR § 4650. Basis of direct state intervention.**

(a) Except for complaints under sections 4680, 4681, 4682 and 4683 regarding instructional materials, teacher vacancies or misassignments, and condition of a facility, the CDE shall directly intervene without waiting for LEA investigation if one or more of the following situations exist:

- (1) The complaint includes an allegation, and the CDE verifies, that an LEA failed to comply with the complaint procedures required by this Chapter and its local rules and regulations, including, but not limited to, the failure or refusal of the LEA to cooperate with the investigation;
- (2) The complaint relates to an agency that is not an LEA funded through the Child Development or Child Nutrition Programs;
- (3) The complainant requests anonymity because he or she would be in danger of retaliation and would suffer immediate and irreparable harm if he or she filed a complaint with the LEA (except for complaints regarding pupil fees, which may be filed anonymously with the principal of a public school);
- (4) The complainant alleges that the LEA failed or refused to implement the final decision resulting from its local investigation or local mediation agreement;
- (5) The complainant alleges and the CDE verifies that through no fault of the complainant, no action has been taken by the LEA within 60 calendar days of the date the complaint was filed. Prior to direct intervention, the CDE shall attempt to work with the LEA to allow it to complete the investigation and issue a Decision.
- (6) The complainant alleges and the CDE verifies that he or she would suffer immediate and irreparable harm as a result of an application of a district-wide policy that is in conflict with state or federal law covered by this Chapter, and that filing a complaint with the LEA would be futile.
- (7) For complaints relating to special education, any one of the following shall be a condition for direct state intervention:
  - (A) The complainant alleges that a public agency, other than an LEA, as specified in Government Code section 7570 et seq., fails or refuses to comply with an applicable law or regulation relating to the provision of free appropriate public education to individuals with disabilities;
  - (B) The complainant alleges that the LEA or public agency fails or refuses to comply with the due process procedures established pursuant to federal and state law and regulation; or has failed or refused to implement a due process hearing order;
  - (C) The complainant alleges facts that indicate that the child or group of children may be in immediate physical danger or that the health, safety or welfare of a child or group of children is threatened.
  - (D) The complainant alleges that an individual with a disability is not receiving the special education or related services specified in his or her individualized educational program (IEP).
  - (E) The complaint involves a violation of federal law governing special education, 20 U.S.C. section 1400 et seq., or its implementing regulations.

(b) The complaint shall identify the basis, as described in subdivision (a) above, for filing the complaint directly to the CDE. The complainant must present the CDE with clear and verifiable evidence that supports the basis for the direct filing, except as in subdivision (a)(7).

### **5 CCR § 4651. Notification.**

When the Department receives a complaint requesting direct State intervention, the Department shall determine whether the complaint meets one or more of the criterion specified in section 4650 for direct State intervention and shall immediately notify the complainant by first class mail of the determination to accept the complaint without a local educational agency investigation and/or Decision. If the complaint is not accepted, it shall be referred to the local educational agency for local investigation, or referred to another agency pursuant to section 4611.

### **5 CCR § 4660. Department resolution procedures.**

(a) When the Department determines that direct State intervention is warranted pursuant to any provision of section 4650, the following procedures shall be used to resolve the issues of the complaint:

- (1) The Department shall consider alternative methods to resolve the allegations in the complaint.
- (2) If both parties request mediation, the Department shall offer to mediate the dispute which may lead to a state mediation agreement.
- (3) The Department shall conduct an investigation, including an on-site investigation if necessary, into the allegations in the complaint unless a settlement agreement has been reached between the parties that disposes of all the issues in the complaint.

### **5 CCR § 4662. Investigation timeline.**

(a) Each party in the dispute shall be sent written notification by the Department of the name(s) of the investigator(s) and the investigation date(s), if known. The notice shall explain the investigation process.

(b) An investigation will be completed within 60 days after receiving a request for direct intervention or an appeal request, unless the parties have agreed to extend the time lines. The Department may grant extensions for the investigation if exceptional circumstances exist that constitute good cause with respect to the particular complaint, and provided that the complainant is informed of the extension and the reasons therefore and provided that the facts supporting the extension are documented and maintained in the complaint file.

### **5 CCR § 4663. Department investigation procedures.**

(a) The investigator(s) shall request all documentation and other evidence regarding the allegations in the complaint.

(b) The investigation shall include an opportunity for the complainant, or the complainant's representative, or both, to present the complaint(s) and evidence or information leading to evidence to support the allegations of non-compliance with state and federal laws and/or regulations.

(c) Refusal by the complainant to provide the investigator with documents or other evidence related to the allegations in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in the dismissal of the complaint because of a lack of evidence to support the allegations.

(d) Refusal by the local educational agency to provide the investigator with access to records and/or other information related to the allegation in the complaint, or to otherwise fail or refuse to cooperate in the investigation or engage in any other obstruction of the investigation may result in a finding based on evidence collected that a violation has occurred and may result in the imposition of a remedy in favor of the complainant.

### **5 CCR § 4664. Department investigation report.**

(a) An investigation report shall be issued. The investigation report shall include the following:

- (1) A summary of the allegations in the complaint;

- (2) A description of the general procedures of the investigation;
  - (3) Citations of applicable law and regulations;
  - (4) Department findings of facts;
  - (5) Department conclusions;
  - (6) LEA required actions, if applicable;
  - (7) LEA recommended specific actions, if applicable;
  - (8) Time line for corrective actions, if applicable; and
  - (9) Notice that any party may request reconsideration of the Department's report from the Superintendent of Public Instruction within 35 days of the receipt of the report.
  - (10) For those programs governed by Part 76 of Title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.
- (b) An investigation report shall be mailed to the parties within 60 days from the conclusion of the investigation.

**5 CCR § 4665. Discretionary reconsideration of department investigation report.**

- (a) Within 35 days of receipt of the Department investigation report, either party may request reconsideration by the Superintendent. The request for reconsideration shall designate the finding(s), conclusion(s), or corrective action(s) in the Department's report to be reconsidered and state the specific basis for reconsidering the designated finding(s), conclusion(s) or corrective action(s). The request for reconsideration shall also state whether the findings of fact are incorrect and/or the law is misapplied.
- (b) Within 35 days of the receipt of the request for reconsideration, the Superintendent or his or her designee may respond in writing to the parties modifying the specific finding(s), conclusion(s), or corrective action(s) for which reconsideration is requested, or denying the request for reconsideration. Pending the Superintendent's reconsideration, the Department report remains in effect and enforceable.
- (c) Appeals by private agencies regarding Child Care Food Programs shall be made to the State Office of Administrative Hearings in accordance with applicable laws and regulations.
- (d) Appeals from investigations of complaints involving Child Development contractors, whether public or private, shall be made to the Superintendent of Public Instruction as provided in subsection (a) except as otherwise provided in division 19 of title 5 of the Code of California Regulations.
- (e) For those programs governed by part 76 of title 34 of the Code of Federal Regulations, the parties shall be notified of the right to appeal to the United States Secretary of Education.

**5 CCR § 4670. Enforcement.**

- (a) Upon determination that a local agency violated the provisions of this chapter, the Department shall notify the local agency pursuant to section 4664(b) that it must take corrective action to come into compliance. If corrective action is not taken, the Department may use any means authorized by law to effect compliance, including, but not limited to:
  - (1) The withholding of all or part of the local agency's relevant state or federal fiscal support in accordance with state or federal statute or regulation;
  - (2) Probationary eligibility for future state or federal support, conditional on compliance with specified conditions;
  - (3) Proceeding in a court of competent jurisdiction for an appropriate order compelling compliance.
- (b) No decision to curtail state or federal funding to a local agency under this chapter shall be made until the Department has determined that compliance cannot be secured by other means.

(c) If the Department determines that a Child Development Contractor's Agreement shall be terminated, the procedures set forth in sections 8257(d) or 8400 et seq. of the Education Code and the regulations promulgated pursuant thereto (chapter 19 of title 5, CCR, commencing with section 17906), shall be followed.

(d) If the Department determines that a local educational agency has failed to comply with any provision of sections 49550 through 49554 of the Education Code, the Department shall certify such noncompliance to the Attorney General for investigation pursuant to section 49556 of the Education Code.

## **Parental notification**

### **LAWS**

#### **EDN 32281.**

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

#### **EDN 48260.5.**

Upon a pupil's initial classification as a truant, the school district shall notify the pupil's parent or guardian using the most cost-effective method possible, which may include electronic mail or a telephone call:

- (a) That the pupil is truant.
- (b) That the parent or guardian is obligated to compel the attendance of the pupil at school.
- (d) That alternative educational programs are available in the district.
- (e) That the parent or guardian has the right to meet with appropriate school personnel to discuss solutions to the pupil's truancy.
- (f) That the pupil may be subject to prosecution under Section 48264.
- (g) That the pupil may be subject to suspension, restriction, or delay of the pupil's driving privilege pursuant to Section 13202.7 of the Vehicle Code.

#### **EDN 48262.**

Any pupil is deemed an habitual truant who has been reported as a truant three or more times per school year, provided that no pupil shall be deemed an habitual truant unless an appropriate district officer or employee has made a conscientious effort to hold at least one conference with a parent or guardian of the pupil and the pupil himself, after the filing of either of the reports required by Section 48260 or Section 48261. For purposes of this section, a conscientious effort means attempting to communicate with the



parents of the pupil at least once using the most cost-effective method possible, which may include electronic mail or a telephone call.

**EDN 48263.**

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

**EDN 48263.5.**

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

**EDN 48266.**

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

**EDN 48900.1.**

(a) The governing board of each school district may adopt a policy authorizing teachers to require the parent or guardian of a pupil who has been suspended by a teacher pursuant to Section 48910 for reasons specified in subdivision (i) or (k) of Section 48900, to attend a portion of a schoolday in the classroom of his or her child or ward. The policy shall take into account reasonable factors that may

prevent compliance with a notice to attend. The attendance of the parent or guardian shall be limited to the class from which the pupil was suspended.

(b) The policy shall be adopted pursuant to the procedures set forth in Sections 35291 and 35291.5. Parents and guardians shall be notified of this policy prior to its implementation. A teacher shall apply any policy adopted pursuant to this section uniformly to all pupils within the classroom.

The adopted policy shall include the procedures that the district will follow to accomplish the following:

(1) Ensure that parents or guardians who attend school for the purposes of this section meet with the school administrator or his or her designee after completing the classroom visitation and before leaving the schoolsite.

(2) Contact parents or guardians who do not respond to the request to attend school pursuant to this section.

(c) If a teacher imposes the procedure pursuant to subdivision (a), the principal shall send a written notice to the parent or guardian stating that attendance by the parent or guardian is pursuant to law. This section shall apply only to a parent or guardian who is actually living with the pupil.

(d) A parent or guardian who has received a written notice pursuant to subdivision (c) shall attend class as specified in the written notice. The notice may specify that the attendance of the parent or guardian be on the day the pupil is scheduled to return to class, or within a reasonable period of time thereafter, as established by the policy of the board adopted pursuant to subdivision (a).

#### **EDN 48904.**

(b) (2) The school district or private school shall notify the parent or guardian of the pupil in writing of the pupil's alleged misconduct before withholding the pupil's grades, diploma, or transcripts pursuant to this subdivision. When the minor and parent are unable to pay for the damages, or to return the property, the school district or private school shall provide a program of voluntary work for the minor in lieu of the payment of monetary damages. Upon completion of the voluntary work, the grades, diploma, and transcripts of the pupil shall be released.

#### **EDN 48904.3**

(b) Any school district that has decided to withhold a pupil's grades, diploma, or transcripts pursuant to Section 48904 shall, upon receiving notice that the pupil has transferred to any school district in this state, notify the parent or guardian of the pupil in writing that the decision to withhold will be enforced as specified in subdivision (a).

#### **EDN 48906.**

When a principal or other school official releases a minor pupil to a peace officer for the purpose of removing the minor from the school premises, the school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken, except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165.6 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by a disclosure of the place where the minor is being held, or that the disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving

medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing.

**EDN 48909.**

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

**EDN 48910.**

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

**EDN 48911.**

(d) At the time of suspension, a school employee shall make a reasonable effort to contact the pupil's parent or guardian in person or by telephone. If a pupil is suspended from school, the parent or guardian shall be notified in writing of the suspension.

(f) The parent or guardian of a pupil shall respond without delay to a request from school officials to attend a conference regarding his or her child's behavior.

No penalties shall be imposed on a pupil for failure of the pupil's parent or guardian to attend a conference with school officials. Reinstatement of the suspended pupil shall not be contingent upon attendance by the pupil's parent or guardian at the conference.

**EDN 48911.1.**

(a) A pupil suspended from a school for any of the reasons enumerated in Sections 48900 and 48900.2 may be assigned, by the principal or the principal's designee, to a supervised suspension classroom for the entire period of suspension if the pupil poses no imminent danger or threat to the campus, pupils, or staff, or if an action to expel the pupil has not been initiated.

(d) At the time a pupil is assigned to a supervised suspension classroom, a school employee shall notify, in person or by telephone, the pupil's parent or guardian. Whenever a pupil is assigned to a supervised suspension classroom for longer than one class period, a school employee shall notify, in writing, the pupil's parent or guardian.

**EDN 48912.**

(a) The governing board may suspend a pupil from school for any of the acts enumerated in Section 48900 for any number of schooldays within the limits prescribed by Section 48903.

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

(c) Before calling a closed session to consider these matters, the governing board shall, in writing, by registered or certified mail or by personal service, notify the pupil and the pupil's parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board to call and hold a closed session. Unless the pupil or the pupil's parent or guardian shall, in writing, within 48 hours after receipt of the written notice of the board's intention, request that the hearing be held as a public meeting, the hearing to consider these matters shall be conducted by the governing board in closed session. In the event that a written request is served upon the clerk or secretary of the governing board, the meeting shall be public, except that any discussion at that meeting which may be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting, shall be in closed session.

**EDN 48914.**

Each school district is authorized to establish a policy that permits school officials to conduct a meeting with the parent or guardian of a suspended pupil to discuss the causes, the duration, the school policy involved, and other matters pertinent to the suspension.

**EDN 48916.**

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

**EDN 49332.**

The parent or guardian of a pupil from whom an injurious object has been taken pursuant to this section may be notified by school personnel of the taking.

School personnel may retain protective possession of any injurious object taken pursuant to this section until the risk of its use as a weapon has dissipated, unless prior to dissipation of the risk, the parent or guardian requests that the school personnel retain the object, in which case, the school personnel shall retain the object until the parent or guardian or another adult with the written consent of the parent or guardian appears personally to take possession of the injurious object from the school personnel.

**EDN 56521.1.**

(e) To prevent emergency interventions from being used in lieu of planned, systematic behavioral interventions, the parent, guardian, and residential care provider, if appropriate, shall be notified within

one schoolday if an emergency intervention is used or serious property damage occurs. A behavioral emergency report shall immediately be completed and maintained in the file of the individual with exceptional needs. The behavioral emergency report shall include all of the following:

- (1) The name and age of the individual with exceptional needs.
- (2) The setting and location of the incident.
- (3) The name of the staff or other persons involved.
- (4) A description of the incident and the emergency intervention used, and whether the individual with exceptional needs is currently engaged in any systematic behavioral intervention plan.
- (5) Details of any injuries sustained by the individual with exceptional needs, or others, including staff, as a result of the incident.

## **REGULATIONS**

No relevant regulations found.

## **Reporting and referrals between schools and law enforcement**

### **LAWS**

#### **EDN 32281.**

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

#### **EDN 48260.6.**

(a) In any county which has not established a county school attendance review board pursuant to Section 48321, the school district may notify the district attorney or the probation officer, or both, of the county in which the school district is located, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (d):

- (1) The name of each pupil who has been classified as a truant.
- (2) The name and address of the parent or guardian of each pupil who has been classified as a truant.

(b) The school district may also notify the district attorney or the probation officer, or both, as to whether the pupil continues to be classified as a truant after the parents have been notified pursuant to subdivision (a) of Section 48260.5.

(c) In any county which has not established a county school attendance review board, the district attorney or the probation officer of the county in which the school district is located may notify the parents or guardians of every truant, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school.

(d) If the district attorney or the probation officer, or both, are notified by a school district that a child continues to be classified as a truant after the parents or guardians have been notified pursuant to subdivision (a) of Section 48260.5, the district attorney or the probation officer in any county which has not established a county school attendance review board may request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

### **EDN 48263.**

If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board or to the probation department for services if the probation department has elected to receive these referrals. The supervisor of attendance, or any other persons the governing board of the school district or county may designate, making the referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board or probation department to which the matter has been referred and of the reason for the referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board or probation officer to consider a proper disposition of the referral.

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board or probation officer determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided, the school attendance review board may, pursuant to Section 48263.5, notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may, pursuant to Section 48263.5, notify the district attorney, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in that section. If the district attorney or the probation office has not elected to participate in the truancy mediation program described in Section 48263.5, the school attendance review board or probation officer may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the petition. The school attendance review board or the probation officer shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

In any county which has not established a school attendance review board, if the school district determines that available community resources cannot resolve the problem of the truant or insubordinate

pupil, or if the pupil or the pupil's parents or guardians, or both, have failed to respond to the directives of the school district or the services provided, the school district, pursuant to Section 48260.6, may notify the district attorney or the probation officer, or both, of the county in which the school district is located, if the district attorney or the probation officer has elected to participate in the truancy mediation program described in Section 48260.6.

**EDN 48263.5.**

(a) In any county which has established a county school attendance review board pursuant to Section 48321, the school attendance review board may notify the district attorney or the probation officer, or both, of the county in which the school district is located, or the probation officer may notify the district attorney, by first-class mail or other reasonable means, of the following if the district attorney or the probation officer has elected to participate in the truancy mediation program described in subdivision (b):

(1) The name of each pupil who has been classified as a truant and concerning whom the school attendance review board or the probation officer has determined:

(A) That available community services cannot resolve the truancy or insubordination problem.

(B) That the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or probation officer or to services provided.

(2) The name and address of the parent or guardian of each pupil described in paragraph (1).

(b) Upon receipt of notification provided pursuant to subdivision (a), the district attorney or the probation officer may notify the parents or guardians of each pupil concerning whom notification has been received, by first-class mail or other reasonable means, that they may be subject to prosecution pursuant to Article 6 (commencing with Section 48290) of Chapter 2 of Part 27 for failure to compel the attendance of the pupil at school. The district attorney or the probation officer may also request the parents or guardians and the child to attend a meeting in the district attorney's office or at the probation department pursuant to Section 601.3 of the Welfare and Institutions Code to discuss the possible legal consequences of the child's truancy. Notice of the meeting shall be given pursuant to Section 601.3 of the Welfare and Institutions Code.

**EDN 48267.**

Any pupil who has once been adjudged an habitual truant or habitually insubordinate or disorderly during attendance at school by the juvenile court of the county, or has been found to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer, who is reported as a truant from school one or more days or tardy on one or more days without valid excuse, in the same school year or in a succeeding year, or habitually insubordinate, or disorderly during attendance at school, shall be brought to the attention of the juvenile court and the pupil's probation or parole officer within 10 days of the reported violation.

Notwithstanding Section 827 of the Welfare and Institutions Code, written notice that a minor enrolled in a public school in grades 7 to 12, inclusive, has been found by a court to be a person described in Section 602 and as a condition of probation is required to attend a school program approved by a probation officer shall be provided by the juvenile court, within seven days of the entry of the dispositional order, to the superintendent of the school district of attendance, which information shall be expeditiously transmitted to the principal or to one person designated by the principal of the school that the minor is attending. The principal or the principal's designee shall not disclose this information to any other person except as otherwise required by law.

**EDN 48269.**

If the parent, guardian, or other person having control or charge of the child, within three days after the rendition of the judgment executes a bond to the governing board of the school district in the sum of two hundred dollars (\$200), conditioned that the child will, during the remainder of the current school year, regularly attend some public or private school in the city, or city and county, or school district, and not be insubordinate or disorderly during attendance, then the court may make an order suspending the execution of the judgment so long as the condition of the bond is complied with. The bond shall be filed with the secretary of the board of education, or clerk of the board of trustees. All money paid or collected on the bond shall be paid into the county treasury as provided in Section 41001.

**EDN 48902.**

(a) The principal of a school or the principal's designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

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

(e) The principal of a school or the principal's designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(k)(6) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

**EDN 48905.**

An employee of a school district whose person or property is injured or damaged by the willful misconduct of a pupil who attends school in such district, when the employee or the employee's property is (1) located on property owned by the district, (2) being transported to or from an activity sponsored by the district or a school within the district, (3) present at an activity sponsored by such district or school, or (4) otherwise injured or damaged in retaliation for acts lawfully undertaken by the employee in execution of the employee's duties, may request the school district to pursue legal action against the pupil who caused the injury or damage, or the pupil's parent or guardian pursuant to Section 48904.



**EDN 48909.**

When a petition is requested in juvenile court or a complaint is filed in any court alleging that a minor of compulsory school attendance age or any pupil currently enrolled in a public school in a grade to and including grade 12 is a person who (a) has used, sold, or possessed narcotics or other hallucinogenic drugs or substances; (b) has inhaled or breathed the fumes of, or ingested any poison classified as such in Section 4160 of the Business and Professions Code; or (c) has committed felonious assault, homicide, or rape the district attorney may, within 48 hours, provide written notice to the superintendent of the school district of attendance, notwithstanding the provisions of Section 827 of the Welfare and Institutions Code, and to the pupil's parent or guardian.

**EDN 48918.1.**

(a) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district shall provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a foster child, as defined in Section 48853.5, the governing board of the school district may provide notice of the expulsion hearing to the pupil's attorney and an appropriate representative of the county child welfare agency at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(b) (1) If the decision to recommend expulsion is a discretionary act and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district shall provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

(2) If a recommendation of expulsion is required and the pupil is a homeless child or youth, as defined in Section 11434a(2) of Title 42 of the United States Code, the governing board of the school district may provide notice of the expulsion hearing to the local educational agency liaison for homeless children and youth designated pursuant to Section 11432(g)(1)(J)(ii) of Title 42 of the United States Code at least 10 calendar days before the date of the hearing. The notice may be made using the most cost-effective method possible, which may include, but is not limited to, electronic mail or a telephone call.

**PEN 243.2.**

(a) (1) Except as otherwise provided in Section 243.6, when a battery is committed on school property, park property, or the grounds of a public or private hospital, against any person, the battery is punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in the county jail not exceeding one year, or by both the fine and imprisonment.

(2) When a violation of this section is committed by a minor on school property, the court may, in addition to any other fine, sentence, or as a condition of probation, order the minor to attend counseling as deemed appropriate by the court at the expense of the minor's parents. The court shall take into consideration the ability of the minor's parents to pay, however, no minor shall be relieved of attending counseling because of the minor's parents' inability to pay for the counseling imposed by this section.

(b) For the purposes of this section, the following terms have the following meanings:

(3) "School" means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, technical school, or community college.

(c) This section shall not apply to conduct arising during the course of an otherwise lawful labor dispute.

**PEN 245.6.**

(a) It shall be unlawful to engage in hazing, as defined in this section.

(b) "Hazing" means any method of initiation or preinitiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of any school, community college, college, university, or other educational institution in this state. The term "hazing" does not include customary athletic events or school-sanctioned events.

(c) A violation of this section that does not result in serious bodily injury is a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100), nor more than five thousand dollars (\$5,000), or imprisonment in the county jail for not more than one year, or both.

(d) Any person who personally engages in hazing that results in death or serious bodily injury as defined in paragraph (4) of subdivision (f) of Section 243 of the Penal Code, is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(e) The person against whom the hazing is directed may commence a civil action for injury or damages. The action may be brought against any participants in the hazing, or any organization to which the student is seeking membership whose agents, directors, trustees, managers, or officers authorized, requested, commanded, participated in, or ratified the hazing.

(f) Prosecution under this section shall not prohibit prosecution under any other provision of law.

**PEN 270.1.**

(a) A parent or guardian of a pupil of six years of age or more who is in kindergarten or any of grades 1 to 8, inclusive, and who is subject to compulsory full-time education or compulsory continuation education, whose child is a chronic truant as defined in Section 48263.6 of the Education Code, who has failed to reasonably supervise and encourage the pupil's school attendance, and who has been offered language accessible support services to address the pupil's truancy, is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars (\$2,000), or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. A parent or guardian guilty of a misdemeanor under this subdivision may participate in the deferred entry of judgment program defined in subdivision (b).

(b) A superior court may establish a deferred entry of judgment program that includes the components listed in paragraphs (1) to (7), inclusive, to adjudicate cases involving parents or guardians of elementary school pupils who are chronic truants as defined in Section 48263.6 of the Education Code:

(1) A dedicated court calendar.

(2) Leadership by a judge of the superior court in that county.

(3) Meetings, scheduled and held periodically, with school district representatives designated by the chronic truant's school district of enrollment. Those representatives may include school psychologists, school counselors, teachers, school administrators, or other educational service providers deemed appropriate by the school district.

(4) Service referrals for parents or guardians, as appropriate to each case that may include, but are not limited to, all of the following:

(A) Case management.

(B) Mental and physical health services.

(C) Parenting classes and support.

(D) Substance abuse treatment.

(E) Child care and housing.

(5) A clear statement that, in lieu of trial, the court may grant deferred entry of judgment with respect to the current crime or crimes charged if the defendant pleads guilty to each charge and waives time for the pronouncement of judgment and that, upon the defendant's compliance with the terms and conditions set forth by the court and agreed to by the defendant upon the entry of his or her plea, and upon the motion of the prosecuting attorney, the court will dismiss the charge or charges against the defendant and the same procedures specified for successful completion of a drug diversion program or a deferred entry of judgment program pursuant to Section 851.90 and the provisions of Section 1203.4 shall apply.

(6) A clear statement that failure to comply with any condition under the program may result in the prosecuting attorney or the court making a motion for entry of judgment, whereupon the court will render a finding of guilty to the charge or charges pled, enter judgment, and schedule a sentencing hearing as otherwise provided in this code.

(7) An explanation of criminal record retention and disposition resulting from participation in the deferred entry of judgment program and the defendant's rights relative to answering questions about his or her arrest and deferred entry of judgment following successful completion of the program.

(c) Funding for the deferred entry of judgment program pursuant to this section shall be derived solely from nonstate sources.

(d) A parent or guardian of an elementary school pupil who is a chronic truant, as defined in Section 48263.6 of the Education Code, may not be punished for a violation of both this section and the provisions of Section 272 that involve criminal liability for parents and guardians of truant children.

(e) If any district attorney chooses to charge a defendant with a violation of subdivision (a) and the defendant is found by the prosecuting attorney to be eligible or ineligible for deferred entry of judgment, the prosecuting attorney shall file with the court a declaration in writing, or state for the record, the grounds upon which that determination is based.

#### **PEN 626.**

(a) As used in this chapter, the following definitions apply:

(4) "School" means any public or private elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school or any public right-of-way situated immediately adjacent to school property or any other place if a teacher and one or more pupils are required to be at that place in connection with assigned school activities.

(5) "Chief administrative officer" means either of the following:

(B) For a school, the principal of the school, a person who possesses a standard supervision credential or a standard administrative credential and who is designated by the principal, or a person who carries out the same functions as a person who possesses a credential and who is designated by the principal.

(b) For the purpose of determining the penalty to be imposed pursuant to this chapter, the court may consider a written report from the Department of Justice containing information from its records showing prior convictions; and that communication is prima facie evidence of the convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(c) As used in this code, the following definitions apply:

(1) "Pupil currently attending school" means a pupil enrolled in a public or private school who has been in attendance or has had an excused absence, for purposes of attendance accounting, for a majority of the days for which the pupil has been enrolled in that school during the school year.

(2) "Safe school zone" means an area that encompasses any of the following places during regular school hours or within 60 minutes before or after the schoolday or 60 minutes before or after a school-sponsored activity at the schoolsite:

(A) Within 100 feet of a bus stop, whether or not a public transit bus stop, that has been publicly designated by the school district as a schoolbus stop. This definition applies only if the school district has chosen to mark the bus stop as a schoolbus stop.

(B) Within 1,500 feet of a school, as designated by the school district.

**PEN 626.85.**

(a) Any specified drug offender who, at any time, comes into any school building or upon any school ground, or adjacent street, sidewalk, or public way, unless the person is a parent or guardian of a child attending that school and his or her presence is during any school activity, or is a student at the school and his or her presence is during any school activity, or has prior written permission for the entry from the chief administrative officer of that school, is guilty of a misdemeanor if he or she does any of the following:

(1) Remains there after being asked to leave by the chief administrative officer of that school or his or her designated representative, or by a person employed as a member of a security or police department of a school district pursuant to Section 39670 of the Education Code, or a city police officer, sheriff, or a Department of the California Highway Patrol peace officer.

(2) Reenters or comes upon that place within seven days of being asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) Has otherwise established a continued pattern of unauthorized entry.

This section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly, or to prohibit any lawful act, including picketing, strikes, or collective bargaining.

(b) Punishment for violation of this section shall be as follows:

(1) Upon a first conviction, by a fine not exceeding one thousand dollars (\$1,000), by imprisonment in the county jail for a period of not more than six months, or by both that fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both imprisonment and a fine not exceeding one thousand dollars (\$1,000), and the defendant shall not be released on probation, parole, or any other basis until he or she has served not less than 90 days.

(c) As used in this section:

(1) "Specified drug offender" means any person who, within the immediately preceding three years, has a felony or misdemeanor conviction of either:

(A) Unlawful sale, or possession for sale, of any controlled substance, as defined in Section 11007 of the Health and Safety Code.

(B) Unlawful use, possession, or being under the influence of any controlled substance, as defined in Section 11007 of the Health and Safety Code, where that conviction was based on conduct which occurred, wholly or partly, in any school building or upon any school ground, or adjacent street, sidewalk, or public way.

(2) "Continued pattern of unauthorized entry" means that on at least two prior occasions in the same calendar year the defendant came into any school building or upon any school ground, or adjacent street, sidewalk, or public way, and the defendant was asked to leave by a person specified in paragraph (1) of subdivision (a).

(3) "School" means any preschool or public or private school having any of grades kindergarten to 12, inclusive.

(4) "School activity" means and includes any school session, any extracurricular activity or event sponsored by or participated in by the school, and the 30-minute periods immediately preceding and following any session, activity, or event.

(d) When a person is directed to leave pursuant to paragraph (1) of subdivision (a), the person directing him or her to leave shall inform the person that if he or she reenters the place he or she will be guilty of a crime.

**PEN 626.9.**

(a) This section shall be known, and may be cited, as the Gun-Free School Zone Act of 1995.

(b) Any person who possesses a firearm in a place that the person knows, or reasonably should know, is a school zone, as defined in paragraph (1) of subdivision (e), unless it is with the written permission of the school district superintendent, his or her designee, or equivalent school authority, shall be punished as specified in subdivision (f).

(c) Subdivision (b) does not apply to the possession of a firearm under any of the following circumstances:

(1) Within a place of residence or place of business or on private property, if the place of residence, place of business, or private property is not part of the school grounds and the possession of the firearm is otherwise lawful.

(2) When the firearm is an unloaded pistol, revolver, or other firearm capable of being concealed on the person and is in a locked container or within the locked trunk of a motor vehicle.

This section does not prohibit or limit the otherwise lawful transportation of any other firearm, other than a pistol, revolver, or other firearm capable of being concealed on the person, in accordance with state law.

(3) When the person possessing the firearm reasonably believes that he or she is in grave danger because of circumstances forming the basis of a current restraining order issued by a court against another person or persons who has or have been found to pose a threat to his or her life or safety. This subdivision may not apply when the circumstances involve a mutual restraining order issued pursuant to Division 10 (commencing with Section 6200) of the Family Code absent a factual finding of a specific threat to the person's life or safety. Upon a trial for violating subdivision (b), the trier of a fact shall determine whether the defendant was acting out of a reasonable belief that he or she was in grave danger.

(4) When the person is exempt from the prohibition against carrying a concealed firearm pursuant to Section 25615, 25625, 25630, or 25645.

(d) Except as provided in subdivision (b), it shall be unlawful for any person, with reckless disregard for the safety of another, to discharge, or attempt to discharge, a firearm in a school zone, as defined in paragraph (1) of subdivision (e).

The prohibition contained in this subdivision does not apply to the discharge of a firearm to the extent that the conditions of paragraph (1) of subdivision (c) are satisfied.

(e) As used in this section, the following definitions shall apply:

(1) "School zone" means an area in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, or within a distance of 1,000 feet from the grounds of the public or private school.

(2) "Firearm" has the same meaning as that term is given in subdivisions (a) to (d), inclusive, of Section 16520.

(3) "Locked container" has the same meaning as that term is given in Section 16850.

(4) "Concealed firearm" has the same meaning as that term is given in Sections 25400 and 25610.

(f) (1) Any person who violates subdivision (b) by possessing a firearm in, or on the grounds of, a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years.

(2) Any person who violates subdivision (b) by possessing a firearm within a distance of 1,000 feet from the grounds of a public or private school providing instruction in kindergarten or grades 1 to 12, inclusive, shall be punished as follows:

(A) By imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, if any of the following circumstances apply:

(i) If the person previously has been convicted of any felony, or of any crime made punishable by any provision listed in Section 16580.

(ii) If the person is within a class of persons prohibited from possessing or acquiring a firearm pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of Title 4 of Part 6 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(iii) If the firearm is any pistol, revolver, or other firearm capable of being concealed upon the person and the offense is punished as a felony pursuant to Section 25400.

(B) By imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or five years, in all cases other than those specified in subparagraph (A).

(3) Any person who violates subdivision (d) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for three, five, or seven years.

(g) (1) Every person convicted under this section for a misdemeanor violation of subdivision (b) who has been convicted previously of a misdemeanor offense enumerated in Section 23515 shall be punished by imprisonment in a county jail for not less than three months, or if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(2) Every person convicted under this section of a felony violation of subdivision (b) or (d) who has been convicted previously of a misdemeanor offense enumerated in Section 23515, if probation is granted or if the execution of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(3) Every person convicted under this section for a felony violation of subdivision (b) or (d) who has been convicted previously of any felony, or of any crime made punishable by any provision listed in

Section 16580, if probation is granted or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in a county jail for not less than three months.

(4) The court shall apply the three-month minimum sentence specified in this subdivision, except in unusual cases where the interests of justice would best be served by granting probation or suspending the execution or imposition of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the execution or imposition of sentence with conditions other than those set forth in this subdivision, in which case the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by this disposition.

(h) Notwithstanding Section 25605, any person who brings or possesses a loaded firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for two, three, or four years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(i) Notwithstanding Section 25605, any person who brings or possesses a firearm upon the grounds of a campus of, or buildings owned or operated for student housing, teaching, research, or administration by, a public or private university or college, that are contiguous or are clearly marked university property, unless it is with the written permission of the university or college president, his or her designee, or equivalent university or college authority, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. Notwithstanding subdivision (k), a university or college shall post a prominent notice at primary entrances on noncontiguous property stating that firearms are prohibited on that property pursuant to this subdivision.

(j) For purposes of this section, a firearm shall be deemed to be loaded when there is an unexpended cartridge or shell, consisting of a case that holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm. A muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(k) This section does not require that notice be posted regarding the proscribed conduct.

(l) This section does not apply to a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in California, any person summoned by any of these officers to assist in making arrests or preserving the peace while he or she is actually engaged in assisting the officer, a member of the military forces of this state or of the United States who is engaged in the performance of his or her duties, a person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5 of Title 4 of Part 6, or an armored vehicle guard, engaged in the performance of his or her duties, as defined in subdivision (e) of Section 7521 of the Business and Professions Code.

(m) This section does not apply to a security guard authorized to carry a loaded firearm pursuant to Article 4 (commencing with Section 26000) of Chapter 3 of Division 5 of Title 4 of Part 6.

(n) This section does not apply to an existing shooting range at a public or private school or university or college campus.

(o) This section does not apply to an honorably retired peace officer authorized to carry a concealed or loaded firearm pursuant to any of the following:

- (1) Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.
- (2) Section 25650.
- (3) Sections 25900 to 25910, inclusive.
- (4) Section 26020.

**PEN 626.10.**

(a) (1) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, knife having a blade longer than 2 1/2 inches, folding knife with a blade that locks into place, razor with an unguarded blade, taser, or stun gun, as defined in subdivision (a) of Section 244.5, any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(2) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses a razor blade or a box cutter upon the grounds of, or within, any public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year.

(b) Any person, except a duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, a full-time paid peace officer of another state or the federal government who is carrying out official duties while in this state, a person summoned by any officer to assist in making arrests or preserving the peace while the person is actually engaged in assisting any officer, or a member of the military forces of this state or the United States who is engaged in the performance of his or her duties, who brings or possesses any dirk, dagger, ice pick, or knife having a fixed blade longer than 2 1/2 inches upon the grounds of, or within, any private university, the University of California, the California State University, or the California Community Colleges is guilty of a public offense, punishable by imprisonment in a county jail not exceeding one year, or by imprisonment pursuant to subdivision (h) of Section 1170.

(c) Subdivisions (a) and (b) do not apply to any person who brings or possesses a knife having a blade longer than 2 1/2 inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, or any private university, state university, or community college at the direction of a faculty member of the private university, state university, or community college, or a certificated or classified employee of the school for use in a private university, state university, community college, or school-sponsored activity or class.

(d) Subdivisions (a) and (b) do not apply to any person who brings or possesses an ice pick, a knife having a blade longer than 2 1/2 inches, a razor with an unguarded blade, a razor blade, or a box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of



grades 1 to 12, inclusive, or any private university, state university, or community college for a lawful purpose within the scope of the person's employment.

(e) Subdivision (b) does not apply to any person who brings or possesses an ice pick or a knife having a fixed blade longer than 2 1/2 inches upon the grounds of, or within, any private university, state university, or community college for lawful use in or around a residence or residential facility located upon those grounds or for lawful use in food preparation or consumption.

(f) Subdivision (a) does not apply to any person who brings an instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO2 pressure, or spring action, or any spot marker gun, or any razor blade or box cutter upon the grounds of, or within, a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, if the person has the written permission of the school principal or his or her designee.

(g) Any certificated or classified employee or school peace officer of a public or private school providing instruction in kindergarten or any of grades 1 to 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee or school peace officer of any private university, state university, or community college may seize any of the weapons described in subdivision (b), from the possession of any person upon the grounds of, or within, the school if he or she knows, or has reasonable cause to know, the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

(h) As used in this section, "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death.

(i) Any person who, without the written permission of the college or university president or chancellor or his or her designee, brings or possesses a less lethal weapon, as defined in Section 16780, or a stun gun, as defined in Section 17230, upon the grounds of, or within, a public or private college or university campus is guilty of a misdemeanor.

#### **PEN 13825.4.**

Community-based organizations and nonprofit agencies that receive funds under this chapter shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

(a) These prevention and intervention efforts shall include, but not be limited to, any of the following:

(1) Services and activities designed to do any of the following:

(A) Teach alternative methods for resolving conflicts and responding to violence, drugs, and crime.

(B) Develop positive and life-affirming attitudes and behaviors.

(C) Build self-esteem.

(2) Recreational, educational or cultural activities.

(3) Counseling or mentoring services.

(4) Economic development activities.

(b) Funds allocated under this chapter may not be used for services or activities related to suppression, law enforcement, incarceration, or other purposes not related to the prevention and deterrence of gangs, crime, and violence.

Nothing in this paragraph shall prevent funds allocated under this chapter from being used for violence prevention and gang crime deterrence services provided by community-based organizations and nonprofit agencies to youths incarcerated in juvenile detention facilities.

(c) Services and activities provided with funds under this chapter shall be used for at-risk youth who are defined as persons from age 5 to 20 years of age and who fall into one or more of the following categories:

- (1) Live in a high-crime or high-violence neighborhood as identified by local or federal law enforcement agencies.
- (2) Live in a low-economic neighborhood as identified by the U.S. Census or come from an impoverished family.
- (3) Are excessively absent from school or are doing poorly in school as identified by personnel from the youth's school.
- (4) Come from a socially dysfunctional family as identified by local or state social service agencies.
- (5) Have had one or more contacts with the police.
- (6) Have entered the juvenile justice system.
- (7) Are identified by the juvenile justice system as being at risk.
- (8) Are current or former gang members.
- (9) Have one or more family members living at home who are current or former members of a gang.
- (10) Are identified as wards of the court, as defined in Section 601 of the Welfare and Institutions Code.

(d) Except as provided in subdivision (e), in carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall do all of the following:

- (1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities with funds provided under this chapter.
- (2) Identify other community-based organizations, nonprofit agencies, local agencies, and charitable or religious organizations in the local community that can serve as a resource in providing services and activities under this chapter.
- (3) Follow the public health model approach in developing and carrying out a program to prevent, deter or reduce youth gangs, crime or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.
- (4) Provide referral services to at-risk youth who are being served under this chapter to appropriate organizations and agencies where the community-based organization or nonprofit agency can readily identify a need for counseling, tutorial, family support, or other types of services.
- (5) Provide the parents and family of the at-risk youth with support, information, and services to cope with the problems the at-risk youth, the parents, and the family are confronting.
- (6) Involve members of the at-risk target population in the development, coordination, implementation, and evaluation of their program of services and activities.
- (7) Objectively evaluate the effectiveness of their services and activities to determine changes in attitudes or behaviors of the at-risk youth being served under this chapter towards gangs, crime, and violence.

(e) Providers of programs that operate in juvenile detention facilities shall not be required to meet the criteria specified in paragraph (5) of subdivision (d) for those programs offered only in those facilities.

**PEN 13860.**

The Legislature finds and declares that a substantial drug abuse and drug trafficking problem exists among school-age children on and around school campuses in the State of California. By enacting this chapter, it is the intention of the Legislature to support increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug offices to suppress trafficking and prevent drug abuse among school age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and drug abuse agencies. As used in this chapter, drugs are defined as marijuana, inhalants, narcotics, dangerous drugs, pharmaceuticals, glue and alcohol. It is the further intention of the Legislature to establish a program of financial and technical assistance for local law enforcement and school districts.

**PEN 13861.**

There is hereby created in the Office of Emergency Services the Suppression of Drug Abuse in Schools Program. All funds made available to the Office of Emergency Services for the purposes of this chapter shall be administered and disbursed by the Director of Emergency Services in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and criteria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression of Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Emergency Services. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among schoolage children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863, shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of these guidelines and procedures, a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

**PEN 13862.**

Law enforcement agencies and school districts receiving funds under this chapter shall concentrate enhanced apprehension, prevention, and education efforts and resources on drug abuse and drug trafficking in and around school campuses.

- (a) These enhanced apprehension, prevention, and education efforts shall include, but not be limited to:
- (1) Drug traffic intervention programs.
  - (2) School and classroom-oriented programs, using tested drug abuse education curriculum that provides indepth and accurate information on drugs, which may include the participation of local law enforcement agencies and qualified drug abuse prevention specialists and which are designed to increase teachers' and students' awareness of drugs and their effects.
  - (3) Family oriented programs aimed at preventing drug abuse which may include the participation of community-based organizations experienced in the successful operation of such programs.
  - (4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. However, if the agency receiving funds under this chapter is a city agency and the program does not involve any county agency, or if a county agency is involved and the county board of supervisors consents, the committee shall be established and appointed by the city council. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board or city council. The committee shall be composed of, at a minimum, the following:
    - (A) Local law enforcement executives.
    - (B) School district executives.
    - (C) Schoolsite staff, which includes administrators, teachers, or other credentialed personnel.
    - (D) Parents.
    - (E) Students.
    - (F) School peace officers.
    - (G) County drug program administrators designated pursuant to Section 11962 of the Health and Safety Code.
    - (H) Drug prevention program executives.
  - (5) Development and distribution of appropriate written and audio-visual aids for training of school and law enforcement staff for handling drug-related problems and offenses. Appropriate existing aids may be utilized in lieu of development of new materials.
  - (6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs.
  - (7) Development of a coordinated intervention system that identifies students with chronic drug abuse problems and facilitates their referral to a drug abuse treatment program.
- (b) Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between local law enforcement and local school districts in cooperation with county drug program offices. These efforts shall include, but not be limited to, the concentration of apprehension efforts in "problem" areas identified by local school authorities.
- (c) Funds appropriated pursuant to this chapter may be used in part to support state-level development and statewide distribution of appropriate written and audio-visual aids for public awareness and training of school and law enforcement staff for handling drug-related problems and offenses. When existing aids can be identified, these aids may be utilized in lieu of the development of new aids.

**PEN 13864.**

There is hereby created in the Office of Emergency Services the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to

the Office of Emergency Services in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the Director of Emergency Services. All applications for that funding shall be reviewed and evaluated by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education.

(a) The Director of Emergency Services is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, containing all of the following components:

- (1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order No. D-70-80.
- (2) A planning process that includes assessment of the school district's characteristics, resources, and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.
- (3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.
- (4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.
- (5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.
- (6) Staff and in-service training programs, including both indepth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.
- (7) In-service training programs for local law enforcement officers.
- (8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the Office of Emergency Services. Funds made available to the Office of Emergency Services for allocation under this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county

superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the Director of Emergency Services.

(1) Unless otherwise authorized by the Office of Emergency Services, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the Office of Emergency Services. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures established by the Office of Emergency Services pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives, school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The Director of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the Office of Emergency Services is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(f) Funds awarded under the Comprehensive Alcohol and Drug Prevention Education Program shall not be subject to Section 10318 of the Public Contract Code.

(g) Funds available pursuant to Item 8100-111-001 and Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or the successor provision of the appropriate Budget Act, shall be allocated to implement this section.

(h) The Director of Emergency Services shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for drug, alcohol, and tobacco education funding under this section and under other state and federal programs. The Office of Emergency Services, the State Department of Health Care Services, the State Department of Education, and other state agencies, to the extent possible, shall develop joint policies and collaborate planning in the administration of drug, alcohol, and tobacco abuse prevention education programs.

#### **PEN 13872.**

The crimes that shall be the focus of this chapter shall include a wide variety of incidents, which reflect obvious racial, ethnic, or religious motivations, ranging from vandalizing a place of worship to assaults between members of gangs, including, but not limited to, incidents that occur on school grounds and between gang members and any other incidents that law enforcement officers on a case-by-case basis identify as having a racial, ethnic or religious motivation. They shall not include incidents of discrimination in employment.

#### **PEN 30310.**

(a) Unless it is with the written permission of the school district superintendent, the superintendent's designee, or equivalent school authority, no person shall carry ammunition or reloaded ammunition onto

school grounds, except sworn law enforcement officers acting within the scope of their duties or persons exempted under Section 25450.

(b) This section shall not apply to any of the following:

- (1) A duly appointed peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.
- (2) A full-time paid peace officer of another state or the federal government who is carrying out official duties while in California.
- (3) Any person summoned by any of these officers to assist in making an arrest or preserving the peace while that person is actually engaged in assisting the officer.
- (4) A member of the military forces of this state or of the United States who is engaged in the performance of that person's duties.
- (5) A person holding a valid license to carry the firearm pursuant to Chapter 4 (commencing with Section 26150) of Division 5.
- (6) An armored vehicle guard, who is engaged in the performance of that person's duties, as defined in subdivision (d) of Section 7582.1 of the Business and Professions Code.

(c) A violation of this section is punishable by imprisonment in a county jail for a term not to exceed six months, a fine not to exceed one thousand dollars (\$1,000), or both the imprisonment and fine.

## REGULATIONS

No relevant regulations found.

## Disclosure of school records

### LAWS

#### **EDN 48201.**

(a) Except for pupils exempt from compulsory school attendance under Section 48231, any parent, guardian, or other person having control or charge of any minor between the ages of 6 and 16 years who removes the minor from any city, city and county, or school district before the completion of the current school term, shall enroll the minor in a public full-time day school of the city, city and county, or school district to which the minor is removed.

(b) (1) Upon a pupil's transfer from one school district to another, the school district into which the pupil is transferring shall request that the school district in which the pupil was last enrolled provide any records that the district maintains in its ordinary course of business or receives from a law enforcement agency regarding acts committed by the transferring pupil that resulted in the pupil's suspension from school or expulsion from the school district. Upon receipt of this information, the receiving school district shall inform any teacher of the pupil that the pupil was suspended from school or expelled from the school district and shall inform the teacher of the act that resulted in that action.

#### **EDN 48264.5.**

(b) The second time a truancy report is issued within the same school year, the pupil may be given a written warning by a peace officer as specified in Section 830.1 of the Penal Code. A record of the written warning may be kept at the school for not less than two years or until the pupil graduates or transfers from that school. If the pupil transfers from that school, the record may be forwarded to the school receiving the pupil's school records. A record of the written warning may be maintained by the law enforcement agency in accordance with that law enforcement agency's policies and procedures. The

pupil may also be assigned by the school to an afterschool or weekend study program located within the same county as the pupil's school. If the pupil fails to successfully complete the assigned study program, the pupil shall be subject to subdivision (c).

**EDN 48912.**

(b) Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing board of a school district shall, unless a request has been made to the contrary, hold closed sessions if the board is considering the suspension of, disciplinary action against, or any other action against, except expulsion, any pupil, if a public hearing upon that question would lead to the giving out of information concerning a school pupil which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5.

**EDN 48918.**

The governing board of each school district shall establish rules and regulations governing procedures for the expulsion of pupils. These procedures shall include, but are not necessarily limited to, all of the following:

- (k) (1) The governing board of the school district shall maintain a record of each expulsion, including the cause for the expulsion. Records of expulsions shall be nonprivileged, disclosable public records.
- (2) The expulsion order and the causes for the expulsion shall be recorded in the pupil's mandatory interim record and shall be forwarded to any school in which the pupil subsequently enrolls upon receipt of a request from the admitting school for the pupil's school records.

**EDN 49062.**

School districts shall establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education. Pupil records shall include a pupil's health record. Such regulations shall establish state policy as to what items of information shall be placed into pupil records and what information is appropriate to be compiled by individual school officers or employees under the exception to pupil records provided in subdivision (b) of Section 49061. No pupil records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 49070.

**EDN 49063.**

School districts shall notify parents in writing of their rights under this chapter upon the date of the pupil's initial enrollment, and thereafter at the same time as notice is issued pursuant to Section 48980. The notice shall be, insofar as is practicable, in the home language of the pupil. The notice shall take a form which reasonably notifies parents of the availability of the following specific information:

- (a) The types of pupil records and information contained therein which are directly related to students and maintained by the institution.
- (b) The position of the official responsible for the maintenance of each type of record.
- (c) The location of the log or record required to be maintained pursuant to Section 49064.
- (d) The criteria to be used by the district in defining "school officials and employees" and in determining "legitimate educational interest" as used in Section 49064 and paragraph (1) of subdivision (a) of Section 49076.
- (e) The policies of the institution for reviewing and expunging those records.
- (f) The right of the parent to access to pupil records.
- (g) The procedures for challenging the content of pupil records.
- (h) The cost if any which will be charged to the parent for reproducing copies of records.



(i) The categories of information which the institution has designated as directory information pursuant to Section 49073.

(j) Any other rights and requirements set forth in this chapter, and the right of the parent to file a complaint with the United States Department of Health, Education, and Welfare concerning an alleged failure by the district to comply with the provisions of Section 438 of the General Education Provisions Act (20 U.S.C.A. Sec. 1232g).

(k) The availability of the prospectus prepared pursuant to Section 49091.14.

#### **EDN 49069.**

Parents of currently enrolled or former pupils have an absolute right to access to any and all pupil records related to their children that are maintained by school districts or private schools. The editing or withholding of any of those records, except as provided for in this chapter, is prohibited.

Each school district shall adopt procedures for the granting of requests by parents for copies of all pupil records pursuant to Section 49065, or to inspect and review records during regular school hours, provided that the requested access shall be granted no later than five business days following the date of the request. Procedures shall include the notification to the parent of the location of all official pupil records if not centrally located and the availability of qualified certificated personnel to interpret records if requested.

#### **EDN 49069.3.**

Foster family agencies with jurisdiction over currently enrolled or former pupils may access records of grades and transcripts, and any individualized education plans (IEP) that may have been developed pursuant to Chapter 4 (commencing with Section 56300) of Part 30 maintained by school districts or private schools of those pupils.

#### **EDN 49070.**

Following an inspection and review of a pupil's records, the parent or guardian of a pupil or former pupil of a school district may challenge the content of any pupil record.

(a) The parent or guardian of a pupil may file a written request with the superintendent of the district to correct or remove any information recorded in the written records concerning his or her child which the parent or guardian alleges to be any of the following:

(1) Inaccurate.

(2) An unsubstantiated personal conclusion or inference.

(3) A conclusion or inference outside of the observer's area of competence.

(4) Not based on the personal observation of a named person with the time and place of the observation noted.

(5) Misleading.

(6) In violation of the privacy or other rights of the pupil.

(b) Within 30 days of receipt of a request pursuant to subdivision (a), the superintendent or the superintendent's designee shall meet with the parent or guardian and the certificated employee who recorded the information in question, if any, and if the employee is presently employed by the school district. The superintendent shall then sustain or deny the allegations.

If the superintendent sustains any or all of the allegations, he or she shall order the correction or the removal and destruction of the information. However, in accordance with Section 49066, the superintendent shall not order a pupil's grade to be changed unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for

which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

If the superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent or guardian may, within 30 days of the refusal, appeal the decision in writing to the governing board of the school district.

(c) Within 30 days of receipt of an appeal pursuant to subdivision (b), the governing board shall, in closed session with the parent or guardian and the certificated employee who recorded the information in question, if any, and if the employee is presently employed by the school district, determine whether or not to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the superintendent to immediately correct or remove and destroy the information from the written records of the pupil, and so inform the parent or guardian in writing. However, in accordance with Section 49066, the governing board shall not order a pupil's grade to be changed unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board, unless the parent or guardian initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the parent or guardian, or if the parent or guardian accepts an unfavorable decision by the district superintendent, the parent or guardian shall be informed and shall have the right to submit a written statement of his or her objections to the information. This statement shall become a part of the pupil's school record until the information objected to is corrected or removed.

#### **EDN 49071.**

(a) To assist in making determinations pursuant to Section 49070, a district superintendent or governing board may convene a hearing panel composed of the following persons, provided that the parent has given written consent to release information from the relevant pupil's records to the members of the panel so convened:

- (1) The principal of a public school other than the public school at which the record is on file.
- (2) A certificated employee appointed by the chairman of the certificated employee council of the district, or, if no such council exists, a certificated employee appointed by the parent.
- (3) A parent appointed by the superintendent or by the governing board of the district, depending upon who convenes the panel.

(b) The persons appointed pursuant to paragraphs (2) and (3) of subdivision (a) shall, if possible, not be acquainted with the pupil, his parent or guardian, or the certificated employee who recorded the information, except when the parent or guardian appoints the person pursuant to paragraph (2).

(c) The principal appointed to the hearing panel shall serve as its chairman.

(d) The hearing panel shall, in closed session, hear the objections to the information of the parent and the testimony of the certificated employee who recorded the information in question, if any, and if such employee is presently employed by the school district.

The hearing panel shall be provided with verbatim copies of the information which is the subject of the controversy.

Written findings shall be made setting forth the facts and decisions of the panel, and such findings shall be forwarded to the superintendent or the governing board, depending upon who convened the panel. The proceedings of the hearing shall not be disclosed or discussed by panel members except in their official capacities.

**EDN 49072.**

Whenever there is included in any pupil record information concerning any disciplinary action taken by school district personnel in connection with the pupil, the school district maintaining such record or records shall allow the pupil's parent to include in such pupil record a written statement or response concerning the disciplinary action.

**EDN 49073.**

(a) School districts shall adopt a policy identifying those categories of directory information as defined in subdivision (c) of Section 49061 that may be released. The school district shall determine which individuals, officials, or organizations may receive directory information. However, no information may be released to a private profitmaking entity other than employers, prospective employers, and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations. The names and addresses of pupils enrolled in grade 12 or who have terminated enrollment before graduation may be provided to a private school or college operating under Chapter 8 (commencing with Section 94800) of Part 59 of Division 10 of Title 3 or its authorized representative. However, no such private school or college shall use that information for other than purposes directly related to the academic or professional goals of the institution, and a violation of this provision is a misdemeanor, punishable by a fine of not to exceed two thousand five hundred dollars (\$2,500). In addition, the privilege of the private school or college to receive the information shall be suspended for a period of two years from the time of discovery of the misuse of the information. Any school district may limit or deny the release of specific categories of directory information to any public or private nonprofit organization based upon a determination of the best interests of pupils.

(b) Directory information may be released according to local policy as to any pupil or former pupil. However, notice shall be given at least on an annual basis of the categories of information that the school district plans to release and of the recipients. Directory information shall not be released regarding a pupil if a parent of that pupil has notified the school district that the information shall not be released.

(c) Directory information shall not be released regarding a pupil identified as a homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)), unless a parent, or pupil accorded parental rights, as identified in the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), has provided written consent that directory information may be released.

**EDN 49073.1.**

(a) A local educational agency may, pursuant to a policy adopted by its governing board or, in the case of a charter school, its governing body, enter into a contract with a third party for either or both of the following purposes:

- (1) To provide services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.
- (2) To provide digital educational software that authorizes a third-party provider of digital educational software to access, store, and use pupil records in accordance with the contractual provisions listed in subdivision (b).

(b) A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following:

- (1) A statement that pupil records continue to be the property of and under the control of the local educational agency.
- (2) Notwithstanding paragraph (1), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account.
- (3) A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract.
- (4) A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information.
- (5) A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement shall not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.
- (6) A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil's records.
- (7) (A) A certification that a pupil's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced.  
(B) The requirements provided in subparagraph (A) shall not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to paragraph (2).
- (8) A description of how the local educational agency and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).
- (9) A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.

(c) In addition to any other penalties, a contract that fails to comply with the requirements of this section shall be rendered void if, upon notice and a reasonable opportunity to cure, the noncompliant party fails to come into compliance and cure any defect. Written notice of noncompliance may be provided by any party to the contract. All parties subject to a contract voided under this subdivision shall return all pupil records in their possession to the local educational agency.

(d) For purposes of this section, the following terms have the following meanings:

- (1) "Deidentified information" means information that cannot be used to identify an individual pupil.
- (2) "Eligible pupil" means a pupil who has reached 18 years of age.
- (3) "Local educational agency" includes school districts, county offices of education, and charter schools.
- (4) "Pupil-generated content" means materials created by a pupil, including, but not limited to, essays, research reports, portfolios, creative writing, music or other audio files, photographs, and account information that enables ongoing ownership of pupil content. "Pupil-generated content" does not include pupil responses to a standardized assessment where pupil possession and control would jeopardize the validity and reliability of that assessment.
- (5) (A) "Pupil records" means both of the following:
  - (i) Any information directly related to a pupil that is maintained by the local educational agency.

(ii) Any information acquired directly from the pupil through the use of instructional software or applications assigned to the pupil by a teacher or other local educational agency employee.

(B) "Pupil records" does not mean any of the following:

(i) Deidentified information, including aggregated deidentified information, used by the third party to improve educational products for adaptive learning purposes and for customizing pupil learning.

(ii) Deidentified information, including aggregated deidentified information, used to demonstrate the effectiveness of the operator's products in the marketing of those products.

(iii) Deidentified information, including aggregated deidentified information, used for the development and improvement of educational sites, services, or applications.

(6) "Third party" refers to a provider of digital educational software or services, including cloud-based services, for the digital storage, management, and retrieval of pupil records.

(e) If the provisions of this section are in conflict with the terms of a contract in effect before January 1, 2015, the provisions of this section shall not apply to the local educational agency or the third party subject to that agreement until the expiration, amendment, or renewal of the agreement.

(f) Nothing in this section shall be construed to impose liability on a third party for content provided by any other third party.

#### **EDN 49075.**

(a) A school district may permit access to pupil records to any person for whom a parent of the pupil has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited. The consent notice shall be permanently kept with the record file.

(b) Notwithstanding subdivision (a), school lunch applications and information shared pursuant to Section 49557.2 shall be retained by any school district in the manner most useful to the administration of the school lunch program.

#### **EDN 49076.**

(a) A school district shall not permit access to pupil records to a person without written parental consent or under judicial order except as set forth in this section and as permitted by Part 99 (commencing with Section 99.1) of Title 34 of the Code of Federal Regulations.

(1) Access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(A) School officials and employees of the school district, members of a school attendance review board appointed pursuant to Section 48321 who are authorized representatives of the school district, and any volunteer aide, 18 years of age or older, who has been investigated, selected, and trained by a school attendance review board for the purpose of providing followup services to pupils referred to the school attendance review board, provided that the person has a legitimate educational interest to inspect a record.

(B) Officials and employees of other public schools or school systems, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided or where the pupil intends to or is directed to enroll, subject to the rights of parents as provided in Section 49068.

(C) Authorized representatives of the Comptroller General of the United States, the Secretary of Education, and state and local educational authorities, or the United States Department of Education's Office for Civil Rights, if the information is necessary to audit or evaluate a state or

federally supported educational program, or in connection with the enforcement of, or compliance with, the federal legal requirements that relate to such a program. Records released pursuant to this subparagraph shall comply with the requirements of Section 99.35 of Title 34 of the Code of Federal Regulations.

(D) Other state and local officials to the extent that information is specifically required to be reported pursuant to state law adopted before November 19, 1974.

(E) Parents of a pupil 18 years of age or older who is a dependent as defined in Section 152 of Title 26 of the United States Code.

(F) A pupil 16 years of age or older or having completed the 10th grade.

(G) A district attorney who is participating in or conducting a truancy mediation program pursuant to Section 48263.5, or Section 601.3 of the Welfare and Institutions Code, or participating in the presentation of evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code.

(H) A district attorney's office for consideration against a parent or guardian for failure to comply with the Compulsory Education Law (Chapter 2 (commencing with Section 48200)) or with Compulsory Continuation Education (Chapter 3 (commencing with Section 48400)).

(I) (i) A probation officer, district attorney, or counsel of record for a minor for purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

(ii) For purposes of this subparagraph, a probation officer, district attorney, and counsel of record for a minor shall be deemed to be local officials for purposes of Section 99.31(a)(5)(i) of Title 34 of the Code of Federal Regulations.

(iii) Pupil records obtained pursuant to this subparagraph shall be subject to the evidentiary rules described in Section 701 of the Welfare and Institutions Code.

(J) A judge or probation officer for the purpose of conducting a truancy mediation program for a pupil, or for purposes of presenting evidence in a truancy petition pursuant to Section 681 of the Welfare and Institutions Code. The judge or probation officer shall certify in writing to the school district that the information will be used only for truancy purposes. A school district releasing pupil information to a judge or probation officer pursuant to this subparagraph shall inform, or provide written notification to, the parent or guardian of the pupil within 24 hours of the release of the information.

(K) A county placing agency when acting as an authorized representative of a state or local educational agency pursuant to subparagraph (C). School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential access to and exchange of the pupil information by email, facsimile, electronic format, or other secure means, if the agreement complies with the requirements set forth in Section 99.35 of Title 34 of the Code of Federal Regulations.

(L) A pupil 14 years of age or older who meets both of the following criteria:

(i) The pupil is a homeless child or youth, as defined in paragraph (2) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(2)).

(ii) The pupil is an unaccompanied youth, as defined in paragraph (6) of Section 725 of the federal McKinney-Vento Homeless Assistance Act (42 U.S.C. Sec. 11434a(6)).

(M) An individual who completes items 1 to 4, inclusive, of the Caregiver's Authorization Affidavit, as provided in Section 6552 of the Family Code, and signs the affidavit for the purpose of enrolling a minor in school.

- (N) (i) An agency caseworker or other representative of a state or local child welfare agency, or tribal organization, as defined in Section 450b of Title 25 of the United States Code, that has legal responsibility, in accordance with state or tribal law, for the care and protection of the pupil.
- (ii) The agency or organization specified in clause (i) may disclose pupil records, or the personally identifiable information contained in those records, to an individual or entity engaged in addressing the pupil's educational needs, if the individual or entity is authorized by the agency or organization to receive the disclosure and the information requested is directly related to the assistance provided by that individual or entity. The records, or the personally identifiable information contained in those records, shall not otherwise be disclosed by that agency or organization, except as provided under the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g), state law, including paragraph (3), and tribal law.
- (2) School districts may release information from pupil records to the following:
- (A) Appropriate persons in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of a pupil or other persons. Schools or school districts releasing information pursuant to this subparagraph shall comply with the requirements set forth in Section 99.32(a)(5) of Title 34 of the Code of Federal Regulations.
- (B) Agencies or organizations in connection with the application of a pupil for, or receipt of, financial aid. However, information permitting the personal identification of a pupil or his or her parents may be disclosed only as may be necessary for purposes as to determine the eligibility of the pupil for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.
- (C) Pursuant to Section 99.37 of Title 34 of the Code of Federal Regulations, a county elections official, for the purpose of identifying pupils eligible to register to vote, or for conducting programs to offer pupils an opportunity to register to vote. The information shall not be used for any other purpose or given or transferred to any other person or agency.
- (D) Accrediting associations in order to carry out their accrediting functions.
- (E) Organizations conducting studies for, or on behalf of, educational agencies or institutions for purposes of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if the studies are conducted in a manner that will not permit the personal identification of pupils or their parents by persons other than representatives of the organizations, the information will be destroyed when no longer needed for the purpose for which it is obtained, and the organization enters into a written agreement with the educational agency or institution that complies with Section 99.31(a)(6) of Title 34 of the Code of Federal Regulations.
- (F) Officials and employees of private schools or school systems where the pupil is enrolled or intends to enroll, subject to the rights of parents as provided in Section 49068 and in compliance with the requirements in Section 99.34 of Title 34 of the Code of Federal Regulations. This information shall be in addition to the pupil's permanent record transferred pursuant to Section 49068.
- (G) (i) A contractor or consultant with a legitimate educational interest who has a formal written agreement or contract with the school district regarding the provision of outsourced institutional services or functions by the contractor or consultant.
- (ii) Notwithstanding the authorization in Section 99.31(a)(1)(i)(B) of Title 34 of the Code of Federal Regulations, a disclosure pursuant to this subparagraph shall not be permitted to a volunteer or other party.
- (3) A person, persons, agency, or organization permitted access to pupil records pursuant to this section shall not permit access to any information obtained from those records by another person, persons, agency, or organization, except for allowable exceptions contained within the federal Family

Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and state law, including this section, and implementing regulations, without the written consent of the pupil's parent. This paragraph shall not require prior parental consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency, or organization obtaining access, so long as those persons have a legitimate educational interest in the information pursuant to Section 99.31(a)(1) of Title 34 of the Code of Federal Regulations.

(4) Notwithstanding any other law, a school district, including a county office of education or county superintendent of schools, may participate in an interagency data information system that permits access to a computerized database system within and between governmental agencies or school districts as to information or records that are nonprivileged, and where release is authorized as to the requesting agency under state or federal law or regulation, if each of the following requirements is met:

- (A) Each agency and school district shall develop security procedures or devices by which unauthorized personnel cannot access data contained in the system.
- (B) Each agency and school district shall develop procedures or devices to secure privileged or confidential data from unauthorized disclosure.
- (C) Each school district shall comply with the access log requirements of Section 49064.
- (D) The right of access granted shall not include the right to add, delete, or alter data without the written permission of the agency holding the data.
- (E) An agency or school district shall not make public or otherwise release information on an individual contained in the database if the information is protected from disclosure or release as to the requesting agency by state or federal law or regulation.

(b) The officials and authorities to whom pupil records are disclosed pursuant to subdivision (e) of Section 48902 and subparagraph (l) of paragraph (1) of subdivision (a) shall certify in writing to the disclosing school district that the information shall not be disclosed to another party, except as provided under the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and state law, without the prior written consent of the parent of the pupil or the person identified as the holder of the pupil's educational rights.

(c) (1) A person or party who is not permitted access to pupil records pursuant to subdivision (a) or (b) may request access to pupil records as provided for in paragraph (2).

(2) A local educational agency or other person or party who has received pupil records, or information from pupil records, may release the records or information to a person or party identified in paragraph (1) without the consent of the pupil's parent or guardian pursuant to Section 99.31(b) of Title 34 of the Code of Federal Regulations, if the records or information are deidentified, which requires the removal of all personally identifiable information, if the disclosing local educational agency or other person or party has made a reasonable determination that a pupil's identity is not personally identifiable, whether through single or multiple releases, and has taken into account other pertinent reasonably available information.

#### **EDN 49076.5.**

(a) Notwithstanding Section 49076, each school district shall release the information it has specific to a particular pupil's identity and location that relates to the transfer of that pupil's records to another school district within this state or any other state or to a private school in this state to a designated peace officer, upon his or her request, when a proper police purpose exists for the use of that information. As permitted by Part 99 (commencing with Section 99.1) of Title 34 of the Code of Federal Regulations, the designated peace officer or law enforcement agency shall show the school district that the peace officer or law enforcement agency has obtained prior written consent from one parent, or provide information indicating that there is an emergency in which the information is necessary to protect the health or safety of the



pupil or other individuals, or that the peace officer or law enforcement agency has obtained a lawfully issued subpoena or a court order.

(b) In order to protect the privacy interests of the pupil, a request to a school district for pupil record information pursuant to this section shall meet the following requirements:

(1) For purposes of this section, “proper police purpose” means that probable cause exists that the pupil has been kidnapped and that his or her abductor may have enrolled the pupil in a school and that the agency has begun an active investigation.

(2) Only designated peace officers and federal criminal investigators and federal law enforcement officers, as defined in Section 830.1 of the Penal Code, whose names have been submitted to the school district in writing by a law enforcement agency, may request and receive the information specified in subdivision (a). Each law enforcement agency shall ensure that each school district has at all times a current list of the names of designated peace officers authorized to request pupil record information.

(3) This section does not authorize designated peace officers to obtain any pupil record information other than that authorized by this section.

(4) The law enforcement agency requesting the information shall ensure that at no time shall information obtained pursuant to this section be disclosed or used for a purpose other than to assist in the investigation of suspected criminal conduct or kidnapping. A violation of this paragraph shall be punishable as a misdemeanor.

(5) The designated peace officer requesting information authorized for release by this section shall make a record on a form created and maintained by the law enforcement agency that shall include the name of the pupil about whom the inquiry was made, the consent of a parent having legal custody of the pupil or a legal guardian, the name of the officer making the inquiry, the date of the inquiry, the name of the school district, the school district employee to whom the request was made, and the information that was requested.

(6) Whenever the designated peace officer requesting information authorized for release by this section does so in person, by telephone, or by some means other than in writing, the officer shall provide the school district with a letter confirming the request for pupil record information before any release of information.

(7) A school district, or officer or employee of the school district, shall not be subject to criminal or civil liability for the release of pupil record information in good faith as authorized by this section.

#### **EDN 49079.**

(a) A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Section 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged in, those acts. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.

(b) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this section unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false, or the information was provided with a reckless disregard for its truth or falsity.

(c) An officer or employee of a school district who knowingly fails to provide information about a pupil who has engaged in, or who is reasonably suspected to have engaged in, the acts referred to in subdivision

(a) is guilty of a misdemeanor, which is punishable by confinement in the county jail for a period not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or both.

(d) For the 1994–95 school year, the information provided shall be from the previous two school years. For the 1996–97 school year and each school year thereafter, the information provided shall be from the previous three school years.

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

#### **EDN 49079.5.**

The Legislature recognizes that a longitudinal pupil data system provides direct and tangible benefits to pupils, educators, policymakers, and the public. The Legislature intends to make statewide longitudinal education data accessible to, and used to inform and engage, authorized stakeholders in an effort to support the continuous improvement of instruction, operations, management, and resource allocation, and in a manner that complies with all federal and state privacy laws. The Legislature intends to make statewide longitudinal education data available and accessible to researchers so they may evaluate the effectiveness of instructional materials, strategies, and approaches for educating different types of pupils in a manner that complies with federal and state privacy laws, including, but not limited to, the Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) (FERPA). It is the intent of the Legislature, in enacting this section, to accomplish all of the following:

(a) Comply with the United States Constitution and all applicable federal laws, including FERPA and its implementing regulations (34 C.F.R. 99).

(b) Comply with the California Constitution and all applicable state laws and their implementing regulations, including, but not limited to, Section 1798.24 of the Civil Code.

(c) Further an environment in which the department and the California Longitudinal Pupil Achievement Data System (CALPADS) serve as resources for local educational agencies.

(d) Promote a culture of continuous improvement through collaboration and informed decisionmaking at the classroom, school, district, state, and policymaker level.

(e) Minimize the anticipated workload increase on the department that may be generated by an increased number of data requests as CALPADS becomes operational, by establishing clear guidance on data access and an efficient process for responding to requests for access.

(f) Pursuant to FERPA and as defined in Section 1798.24 of the Civil Code, make pupil data available to qualified researchers from nonprofit organizations while appropriately protecting the privacy of individual pupils.

## **REGULATIONS**

### **5 CCR § 50. Access to public records of the California Department of Education.**

(a) Inspection of the original copy of any public record of the California Department of Education (CDE) (as defined by Government Code sections 6252(d) and 6254) will be permitted during regular office hours of the CDE, 1430 N Street, Sacramento, California 95814.

(b) Requests to inspect such records should be filed with the Chief Deputy Superintendent of Public Instruction at least five working days prior to the requested inspection date in order to insure availability.

(c) Requests for inspection should be as specific as possible in identifying the records desired.

(d) Original copies of public records shall not be removed from the office of the custodian thereof.

(e) If search by a state employee for the records requested, inspection of the public record will be subject to the payment of the fees required by section 18473 of this title.

### **5 CCR § 51. Obtaining copies of public records.**

Copies of public records may be obtained from the custodian thereof through the procedure provided in Section 18471.

### **5 CCR § 430. Definition.**

- (a) "Pupil" means a person who is or was enrolled in a school.
- (b) "Adult Pupil" means a person who is or was enrolled in school and who is at least 18 years of age.
- (c) "Eligible Pupil" means a person 16 years or older or who has completed Grade 10.
- (d) "Pupil Record" means information relative to an individual pupil gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record.
  - (1) "Mandatory Permanent Pupil Records" are those records which are maintained in perpetuity and which schools have been directed to compile by California statute, regulation, or authorized administrative directive.
  - (2) "Mandatory Interim Pupil Records" are those records which the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per California statute, regulation, or authorized administrative directive.
  - (3) "Permitted Pupil Records" are those records having clear importance only to the current educational process of the student.
- (e) "District" means a local school district or county or state operated special school or private or out-of-state school for which California tax revenues pay all or part of the tuition.

### **5 CCR § 431. Responsibilities of local governing boards.**

- (a) Local governing boards shall designate a certificated employee as custodian of records. Such employee shall be charged with districtwide responsibility for implementing board policies relating to pupil records.
- (b) The principal of each school or a certificated designee shall be responsible for the implementation of board and district policies relating to the pupil records maintained in that school.
- (c) Each district shall establish written policies and procedures for pupil records which implement Education Code Section 49060, and Title 5 regulations relating to pupil records. Such procedures and policies shall:
  - (1) Guarantee access to authorized persons within 5 days following the date of request;
  - (2) Assure security of the records; and
  - (3) Enumerate and describe the pupil records collected and maintained by the district.
- (d) All anecdotal information and assessment reports maintained as a pupil record shall be dated and signed by the individual who originated the data.
- (e) The district shall notify parents in writing at least annually of their rights in regard to pupil records as per Education Code Section 49063.
- (f) When a parent's dominant language is not English, the district shall make an effort to:
  - (1) Provide interpretation of the pupil record in the dominant language of the parent, or
  - (2) Assist the parent(s) in securing an interpreter.
- (g) Neither the pupil record, nor any part thereof, shall be withheld from the parent or eligible pupil requesting access.

**5 CCR § 432. Varieties of pupil records.**

(a) The principal of each school shall keep on file a record of enrollment and scholarship for each pupil currently enrolled in said school.

(b) Local school districts shall not compile any other pupil records except mandatory or permitted records as herein defined:

(1) "Mandatory Permanent Pupil Records" are those records which the schools have been directed to compile by California statute authorization or authorized administrative directive. Each school district shall maintain indefinitely all mandatory permanent pupil records or an exact copy thereof for every pupil who was enrolled in a school program within said district. The mandatory permanent pupil record or a copy thereof shall be forwarded by the sending district upon request of the public or private school in which the student has enrolled or intends to enroll. Such records shall include the following:

(A) Legal name of pupil.

(B) Date of birth.

(C) Method of verification of birth date.

(D) Sex of pupil.

(E) Place of birth.

(F) Name and address of parent of minor pupil.

1. Address of minor pupil if different than the above.

2. An annual verification of the name and address of the parent and the residence of the pupil.

(G) Entering and leaving date of each school year and for any summer session or other extra session.

(H) Subjects taken during each year, half-year, summer session, or quarter.

(I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken.

(J) Verification of or exemption from required immunizations.

(K) Date of high school graduation or equivalent.

(2) "Mandatory Interim Pupil Records" are those records which schools are required to compile and maintain for stipulated periods of time and are then destroyed as per California statute or regulation. Such records include:

(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records.

(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver.

(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.

(D) Language training records.

(E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067.

(F) Parental restrictions regarding access to directory information or related stipulations.

(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action.

(H) Parental authorizations or prohibitions of pupil participation in specific programs.

(I) Results of standardized tests administered within the preceding three years.

(3) "Permitted Records" are those pupil records which districts may maintain for appropriate educational purposes. Such records may include:

- (A) Objective counselor and/or teacher ratings.
- (B) Standardized test results older than three years.
- (C) Routine discipline data.
- (D) Verified reports of relevant behavioral patterns.
- (E) All disciplinary notices.
- (F) Attendance records not covered in the Administrative Code Section 400.

**5 CCR § 433. Maintenance and security of pupil records.**

- (a) The custodian of records shall be responsible for the security of pupil records maintained by the district and shall devise procedures for assuring that access to such records is limited to authorized persons.
- (b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil, or when records are maintained in different locations a notation in the central file as to where such other records may be found is required.

**5 CCR § 434. Access to pupil records.**

Access to pupil records should be in accordance with Education Code Sections 49069 and 49073 through 49077.

**5 CCR § 435. Procedure for access to pupil records.**

- (a) Authorized organizations, agencies, and persons from outside the school whose access requires the consent of the parent or the adult pupil must submit their request to view the records, together with any required authorization, to the chief school administrator or the custodian of records.
- (b) The chief school administrator or the custodian of records or a certificated designee shall be responsible during the inspection for interpretation of the records where necessary and for prevention of their alteration, damage, or loss. In every instance of inspection of pupil records by persons who do not have assigned educational responsibility, an entry shall be made in the access log of said record, indicating the name of the person(s) granted access, the reason access was granted, the time and circumstances of inspection, and the records inspected.
- (c) Unless otherwise judicially instructed, the school district shall, prior to the disclosure of any pupil records to organizations, agencies, or persons outside the school pursuant to a court order, give the parent or adult pupil at least three days' notice, if lawfully possible within the requirements of the judicial order, of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing, if practicable. Only those records related to the specific purpose of the court order shall be disclosed.

**5 CCR § 436. Rights of parents and adult pupils.**

A parent or an adult pupil may challenge the content of any pupil record according to the procedures established by Education Code Sections 49069 and 49070. A hearing panel may be convened to aid the superintendent or board in deciding whether a challenge should be sustained, as specified in Education Code Section 49071.

Information shall be corrected or removed if it is: (1) inaccurate, (2) an unsubstantiated personal conclusion or inference, (3) a conclusion or inference outside of the observer's area of competence, or (4) not based on the personal observation of a named person with the time and place of the observation noted.

### **5 CCR § 437. Retention and destruction of pupil records.**

(a) No additions except routine updating shall be made to the record after high school graduation or permanent departure without the prior consent of the parent or adult pupil.

(b) Mandatory permanent pupil records shall be preserved in perpetuity by all California schools according to Chapter 2, Division 16, Part I, of this title.

(c) Unless forwarded to another district, mandatory interim pupil records may be adjudged to be disposable when the student leaves the district or when their usefulness ceases. Destruction shall be in accordance with Section 16027 of this title during the third school year following such classification.

(d) Permitted pupil records may be destroyed when their usefulness ceases. They may be destroyed after six months following the pupil's completion of or withdrawal from the educational program.

The method of destruction shall assure that records are not available to possible public inspection in the process of destruction.

### **5 CCR § 438. Transfer of records.**

(a) When a pupil transfers to another school district or to a private school, a copy of the pupil's Mandatory Permanent Pupil Record shall be transferred upon request from the other district or private school. The original or a copy must also be retained permanently by the sending district. If the transfer is to another California public school, the pupil's entire Mandatory Interim Pupil Record shall be forwarded. If the transfer is out of state or to a private school, the Mandatory Interim Pupil Record may be forwarded. Permitted pupil records may be forwarded. All pupil records shall be updated prior to such transfer.

(b) If the pupil is a within-California transfer, the receiving school shall notify parents of the record transfer. If the student transfers out of state, the sending district may notify the parents of the rights accorded them. The notification shall include a statement of the parent's right to review, challenge, and receive a copy of the pupil record, if desired.

(c) Pupil records shall not be withheld from the requesting district because of any charges or fees owed by the pupil or his parent. This provision applies to pupils in grades K-12 in both public and private schools.

## **Data collection, review, and reporting of disciplinary policies and actions**

### **LAWS**

#### **EDN 32282.**

(a) The comprehensive school safety plan shall include, but not be limited to, both of the following:

(1) Assessing the current status of school crime committed on school campuses and at school-related functions.

(d) Each schoolsite council or school safety planning committee in developing and updating a comprehensive school safety plan shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

(e) The comprehensive school safety plan may be evaluated and amended, as needed, by the school safety planning committee, but shall be evaluated at least once a year, to ensure that the comprehensive school safety plan is properly implemented. An updated file of all safety-related plans and materials shall be readily available for inspection by the public.

(f) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include policies and procedures aimed at the prevention of bullying.

(g) The comprehensive school safety plan, as written and updated by the schoolsite council or school safety planning committee, shall be submitted for approval under subdivision (a) of Section 32288.

**EDN 32282.1.**

(a) As comprehensive school safety plans are reviewed and updated, the Legislature encourages all plans, to the extent that resources are available, to include clear guidelines for the roles and responsibilities of mental health professionals, community intervention professionals, school counselors, school resource officers, and police officers on school campuses, if the school district uses these people.

(b) The guidelines developed pursuant to subdivision (a) are encouraged to include both of the following:

(1) Primary strategies to create and maintain a positive school climate, promote school safety, and increase pupil achievement, and prioritize mental health and intervention services, restorative and transformative justice programs, and positive behavior interventions and support.

(2) Consistent with paragraph (2) of subdivision (a) of Section 32282, protocols to address the mental health care of pupils who have witnessed a violent act at any time, including, but not limited to, any of the following:

(A) While on school grounds.

(B) While going to or coming from school.

(C) During a lunch period whether on or off campus.

(D) During, or while going to or coming from, a school-sponsored activity.

**EDN 32286.**

(a) Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter. A new school campus that begins offering classes to pupils after March 1, 2001, shall adopt a comprehensive school safety plan within one year of initiating operation, and shall review and update its plan by March 1, every year thereafter.

(b) Commencing in July 2000, and every July thereafter, each school shall report on the status of its school safety plan, including a description of its key elements in the annual school accountability report card prepared pursuant to Sections 33126 and 35256.

**EDN 48202.**

The county board of education of each county may establish, by resolution, the following regulation requiring the reporting of various types of severance of attendance of or by any pupil subject to the compulsory education laws of California or of any one or more of the types of severance enumerated in subdivision (a) below and may require such reporting of any or all of the private and public schools of the county:

(a) The administration of each private school and public school district of the county shall, upon the severance of attendance by any pupil subject to the compulsory education laws of California, whether by expulsion, exclusion, exemption, transfer, suspension beyond 10 schooldays, or other reasons, report such severance to the county superintendent of schools in the jurisdiction. The report shall include names, ages, last known address and the reason for each such severance.

(b) It shall be the duty of the county superintendent of such county to examine such reports and draw to the attention of the county board of education and local district board of education any cases in which the interests of the child or the welfare of the state may need further examination.

(c) After preliminary study of available information in cases so referred to it, the county board of education may, on its own action, hold hearings on such cases in the manner provided in Sections 48915 through 48920 and with the same powers of final decision as therein provided.

**EDN 48273.**

The governing board of each school district shall adopt rules and regulations to require the appropriate officers and employees of the district to gather and transmit to the county superintendent of schools the number and types of referrals to school attendance review boards and of requests for petitions to the juvenile court pursuant to Section 48263.

**EDN 48911.2.**

(b) At the end of the academic year, the school may report to the district superintendent in charge of school support services, or other comparable administrator if that position does not exist, on the rate of reduction in the school's off-campus suspensions and the plan or activities used to comply with subdivision (a).

**EDN 48916.1.**

(e) (1) Each school district shall maintain the following data:

- (A) The number of pupils recommended for expulsion.
- (B) The grounds for each recommended expulsion.
- (C) Whether the pupil was subsequently expelled.
- (D) Whether the expulsion order was suspended.
- (E) The type of referral made after the expulsion.
- (F) The disposition of the pupil after the end of the period of expulsion.

(2) The Superintendent may require a school district to report this data as part of the coordinated compliance review. If a school district does not report outcome data as required by this subdivision, the Superintendent may not apportion any further money to the school district pursuant to Section 48664 until the school district is in compliance with this subdivision. Before withholding the apportionment of funds to a school district pursuant to this subdivision, the Superintendent shall give written notice to the governing board of the school district that the school district has failed to report the data required by paragraph (1) and that the school district has 30 calendar days from the date of the written notice of noncompliance to report the requested data and thereby avoid the withholding of the apportionment of funds.

**EDN 48926.**

Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.



## REGULATIONS

### **5 CCR § 700. Definitions.**

(a) "Aggregated data," means the information contained on all of the completed California Safe Schools Assessment School Crime and Incident Reporting Forms (July 1, 2001) collected during each reporting period by the school district or county office of education from each school, program, or camp within the jurisdiction of the superintendent of the respective school district or county office of education.

(b) Crime classifications

(1) Arson. "Arson" means the willful and malicious setting fire to or burning any structure or property, regardless of the value of the property. Arson does not include one burning his or her own property, unless there is injury to another person or another person's property. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of arson that result in an economic loss of \$100 or more to an individual, the school district or county office of education.

(2) Assault with a deadly weapon. "Assault with a deadly weapon" means the use of a firearm, deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury. A deadly weapon can be a firearm; stun gun or taser; bows and arrows; knives or other cutting instruments; clubs; bottles; explosives; and body parts, such as teeth, hands, fists, and feet used with force likely to produce great bodily injury.

(3) Battery. "Battery" means the willful and unlawful use of force or violence upon the person of another.

(4) Burglary. "Burglary" means any entry with the intent to commit a theft or any felony, even though force may not have been used to gain entry.

(5) Destructive devices. "Destructive devices" means the use of any of the following for criminal purposes:

(A) Projectile containing any explosive or incendiary material or any chemical substance, bomb, facsimile bomb, grenade, explosive missile or similar device or any launching device.

(B) Weapon of a caliber greater than 0.60 caliber which fires fixed ammunition or any ammunition other than a shotgun.

(C) Rocket, rocket propelled projectile, or any similar device of diameter greater than 0.60 inches or launching device.

(D) Breakable container which contains a flammable liquid with a flashpoint of 150 degrees Fahrenheit or less and has a wick or similar device capable of being ignited, other than a device which is commercially manufactured primarily for the purpose of illumination.

(E) Sealed device containing dry ice (CO<sub>2</sub>) or other chemically reactive substances assembled for the purpose of causing an explosion by a chemical reaction.

Included in this category also are written or oral threats to use destructive devices. Devices such as snappers or poppers, firecrackers, and fireworks shall not be reported.

(6) Drug and alcohol offenses. "Drug and alcohol offenses" means the possession, use, sale, or furnishing of any drug, intoxicating liquor, controlled substance, or toluene, as well as drug paraphernalia, that is prohibited by law.

(7) Explosive devices. "Explosive devices" means any substance, or combination of substances, the primary or common purpose of which is detonation or rapid combustion with criminal intent. Explosives include, but are not limited to:

(A) Dynamite, nitroglycerin, black powder, propellant explosives, detonating primers, blasting caps or commercial boosters.

(B) Substances determined to be class A and class B explosives by the United States Department of Transportation.

(C) Nitro carbo nitrate substances (blasting agent) as classified by the United States Department of Transportation.

(D) Any material designated as an explosive by the State Fire Marshal.

(E) Certain class C explosives designated by the United States Department of Transportation when listed in regulations adopted by the State Fire Marshal.

Included in this category also are written or oral threats to use explosive devices. Devices such as snappers or poppers, firecrackers, and fireworks shall not be reported.

(8) Graffiti. "Graffiti" means any form of unauthorized painting, writing, or inscription on the property of a school district or county office of education, regardless of the content or nature of the material used in the commission of the act. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of graffiti that result in an economic loss of \$100 or more to an individual, the school district or county office of education.

(9) Hate Crime. "Hate crime" means an act or attempted act against the person or property of another individual or institution which in any way manifests evidence of hostility toward the victim because of his or her actual or perceived race, religion, disability, gender, nationality, or sexual orientation. This includes, but is not limited to, threatening telephone calls, hate mail, physical assault, vandalism, cross burning, destruction of religious symbols, or fire bombings. This paragraph shall include those threats or hate mail sent by electronic communication.

(10) Homicide. "Homicide" means the unlawful killing of a person by another person.

(11) Loitering or trespassing

(A) "Loitering" means to delay, to linger, or to idle about any school location without lawful business for being present.

(B) "Trespassing" means the entering of school grounds during school hours without registering with the site or program administrator, as required by law, and remaining after being asked to leave, or returning to the school grounds within thirty days of being asked to leave or within seven days if the person is a parent or guardian of a student attending the school.

(12) Possession of weapons. "Possession of weapons" means the unauthorized possession of dangerous weapons, which include, but are not limited to, fire arms or knives.

(13) Robbery/extortion

(A) "Robbery" means the taking of personal property in possession of another, from his person or immediate presence, and against his will, accomplished by force or fear.

(B) "Extortion" means the taking of property from another person without their consent. Extortion is induced by a threat of force or wrongful use of fear. Extortion may occur over a period of time. Included in this category are written or oral threats to take property.

(14) Sex offenses. "Sex offenses" mean sexual battery, rape, statutory rape, sodomy, lewd and lascivious conduct with children, oral copulation, and child molestation.

(15) Theft. "Theft" (larceny) means the taking, leading, driving, or carrying away of property (including motor vehicles) belonging to another with the intent to deprive the rightful owner of its use, regardless of the value of the property. Reporting for the purposes of the Safe Schools Assessment Program shall be limited to incidents of theft that result in an economic loss of \$50 or more to the individual, school district, or county office of education.

(16) Vandalism. "Vandalism" (to school, student, or employee property on school location) means the malicious defacing, damaging, or destroying of property. Reporting for the purposes of the Safe

Schools Assessment Program shall be limited to incidents of vandalism that result in an economic loss of \$100 or more to the individual, school district, or county office of education.

(c) "Economic loss" means (except in the case of arson) the gross dollar loss as a result of a crime committed against the property of an individual, school district or county office of education before any insurance claim payments, restitution by students, or restitution by parents or guardians. In the case of arson, "economic loss" means the estimated cost of the economic loss to the individual, school district or county office incurred as a result of the arson.

(d) "Hate motivated incident" means an act or attempted act which constitutes an expression of hostility against a person or property or institution because of the victim's real or perceived race, religion, disability, gender, nationality, or sexual orientation. A hate motivated incident can be using bigoted insults, taunts, or slurs; distributing or posting hate group literature or posters; defacing, removing, or destroying posted materials or announcements; or posting or circulating demeaning jokes or leaflets. This subsection shall include those expressions of hostility sent by electronic communication.

(e) "Intentionally misleading data" means data that the school district or county office of education superintendent intentionally withheld that clearly should have been reported, or data submitted that was known or reasonably should have been known to be misleading or false.

(f) "Location" means the places where, and the times when, school personnel have supervisory responsibility for pupils, that include the following:

- (1) On campus, including before or after school, and during lunch and recess.
- (2) On a school bus, to or from school, or to or from a school-sponsored activity.
- (3) Off campus during lunch or at a school-sponsored activity.
- (4) On the way directly to and from school or at a school-sponsored activity.

(g) "Non-student" means a person, regardless of age, not enrolled in the school or program reporting the crime, including hate crime or hate motivated incident.

(h) "Reportable crime" means an act that (1) is a violation of an existing criminal statute, (2) involves school activities or school-sponsored activities conducted by school districts or county offices of education, and (3) is reportable to local law enforcement as a crime, including hate crime, whether or not a crime report is filed with the local law enforcement. The reportable crime classifications are described above in subsection (b).

(i) "Reportable hate motivated incident" means an act or attempted act that (1) is a violation of an existing civil rights statute, and (2) involves school activities or school-sponsored activities conducted by school districts or county offices of education. The reportable hate motivated incident classification is described above in subsection (d).

(j) "Safe schools assessment" means the reporting of crime, including hate crime and hate motivated incidents, committed at a location, as defined above in subsection (f).

(k) "School bus" means a bus that is owned or leased by the school district or county office of education for the purpose of transporting students or staff members to or from school or school-sponsored activities.

(l) "Site or program administrator" means the school or program site person who has responsibility for compiling the school crime and hate motivated incident data and reporting the crime and incident data to the respective school district or county office of education superintendent. The site or program administrator can be, but is not limited to, school site principals, vice principals, counselors, and coordinators or directors of county-operated programs.

(m) "Student" means a person enrolled in the school or program reporting the crime or incident.

(n) "Suspect" means a person reasonably suspected of having committed the crime or incident.

(o) "Victim," as it relates to crimes against persons, including hate crimes and hate motivated incidents, means a person against whom a crime or incident was committed.

**5 CCR § 701. School crime and incident reporting procedures.**

(a) All school district superintendents and county office of education superintendents who operate educational programs are required to submit to the California Department of Education safe school assessment reports that contain specific numerical data on the incidents of crime, including hate crimes or hate motivated incidents, occurring on their respective school campuses. Each school district or county office of education shall utilize the following procedure to report crime and hate motivated incident data from school or program sites to the respective school district or county office of education superintendent, and to the California Department of Education:

(1) Each administrator of a school site or county office of education program, or designee, shall complete a California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for each incident of crime, including hate crime or hate motivated incidents. The information on the form includes, but is not limited to, identification of the crime or hate motivated incident, victim characteristics, suspect characteristics, if known at the time of the incident, and the actual or estimated dollar loss to the school district or county office of education resulting from a criminal act directed against property of the school district or county office of education. The site or program administrator shall use the crime and hate motivated incident classification definitions as specified above in Section 700(b) and (d) and the reporting guidelines as specified below in Section 702(a) to determine if a crime or an incident is reportable for the purposes of the Safe Schools Assessment Program.

(2) The site or program administrator, or designee, shall retain on file for not less than three years the individual reports of crimes and hate motivated incidents on which the aggregate data is based, and any other required documentation, as specified below in Section 702(b).

(3) Each month the data regarding reportable school crimes and hate motivated incidents shall be reported to the designated person at the respective school district or county office of education.

(4) Any school district that has its own police department may have the chief of its police force or other administrator of the police department prepare the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001) for its schools and submit the aggregated data to the California Department of Education.

(5) On or before February 1 and August 1 of each year, the respective school district or county office of education superintendent, or designee, shall aggregate the school crime and hate motivated incident data reported by schools or programs within their jurisdiction and report the aggregated data to the California Department of Education.

(6) Beginning February 1, 1997 and thereafter, if a school district or county office of education chooses to submit its data to the California Department of Education in an electronic format, it must do so in a format designated by the California Department of Education. For the purposes of this section, an electronic format includes, computer disk, modem transfer, or other electronic means.

(b) Reportable crimes and hate motivated incidents occurring at a school in the jurisdiction of another school district or county office of education shall be reported by the education agency in which the crime or hate motivated incident occurred.

**5 CCR § 702. Guidelines for reporting and required documentation.**

Site or program administrators and school district and county office of education superintendents shall use (1) crime and hate motivated incident classifications based on existing statutes, as specified above in Section 700(b) and (d), (2) reporting guidelines as specified in subsection (a) below, and (3) guidelines for

required documentation as specified in subsection (b) below to complete the reporting procedures as specified above in Section 701.

(a) Reporting guidelines. The site or program administrator or designee shall report a crime or hate motivated incident when it has been determined that a reportable crime or hate motivated incident, as specified above in Section 700(b) and (d), has been committed on a school location, as specified above in Section 700(f). If more than one crime or hate motivated incident is committed during an occurrence, the most serious crime or incident in the judgment of the site or program administrator or designee shall be reported. The suspect(s) need not be apprehended for a crime or hate motivated incident to be reportable. The site or program administrator or designee may consult with local law enforcement to confirm that the occurrences reported on the forms are crimes or hate motivated incidents as defined in statute.

(b) Required documentation. The school district or county office of education superintendent responsible for reporting school crime and hate motivated incident data shall make available, for not less than three years from the date the report was submitted, supporting data which verifies information contained on the California Safe Schools Assessment School Crime and Incident Reporting Form (July 1, 2001). Such data shall include, but not be limited to, reports to local law enforcement officers and suspension and expulsion reports which have been reported to the respective local governing board, for the crime classifications specified in Education Code section 48915(a) through (d); and insurance claims, maintenance records, and other documents to verify economic loss, if applicable. In addition, staff should be available to participate in interviews during site visits from the California Department of Education.

#### **5 CCR § 704. Certification of report.**

Each school district or county office of education superintendent or designee shall certify to the best of their knowledge and belief that the information in each crime and hate motivated incident reporting form is true, accurate, and complete prior to submission to the California Department of Education.

#### **5 CCR § 705. Failure to submit or intentionally submitting misleading data.**

School districts or county offices of education failing to submit a report or intentionally submitting misleading data may be sanctioned by the Superintendent of Public Instruction. The sanction is withholding a dollar amount not to exceed one-half of the annual salary of the superintendent of either the reporting school district or the county office of education from the school district's or county office of education's next state funding apportionment.

#### **5 CCR § 11992. Provisions.**

(a) A California public elementary or secondary school is "persistently dangerous" if, in each of three consecutive fiscal years, one of the following criteria has been met:

- (1) For a school of fewer than 300 enrolled students, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than three.
- (2) For a larger school, the number of incidents of firearm violations committed by non-students on school grounds during school hours or during a school-sponsored activity, plus the number of student expulsions for any of the violations delineated in subsection (b) is greater than one per 100 enrolled students or a fraction thereof.

(b) Applicable violations include:

- (1) Assault or battery upon a school employee (Education Code section 48915(a)(5));

- (2) Brandishing a knife (Education Code section 48915(c)(2));
- (3) Causing serious physical injury to another person, except in self-defense (Education Code section 48915(a)(1));
- (4) Hate violence (Education Code section 48900.3);
- (5) Possessing, selling or furnishing a firearm (Education Code section 48915(c)(1));
- (6) Possession of an explosive (Education Code section 48915(c)(5));
- (7) Robbery or extortion (Education Code section 48915(a)(4));
- (8) Selling a controlled substance (Education Code section 48915(c)(3)); and
- (9) Sexual assault or sexual battery (Education Code section 48915(c)(4)).

(c) In instances where a student committed a violation enumerated in subsection (b) for which expulsion proceedings would have been instituted, but is no longer a student and therefore cannot be expelled, that violation must be reported in the total number of incidents and expulsions referenced in subsection (a).

### **5 CCR § 11993. Definitions.**

- (a) "Assault" means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another (Penal Code section 240).
- (b) "Battery" means any willful and unlawful use of force or violence upon the person of another (Penal Code section 242).
- (c) "Controlled substance" means all controlled substances listed in chapter 2 of division 10 of the Health and Safety Code (commencing with section 11053).
- (d) "Firearm" means handgun, rifle, shotgun or other type of firearm (section 921(a)(3) of title 18, United States Code).
- (e) "Firearm violation" means unlawfully bringing or possessing a firearm, as defined in subsection (d), on school grounds or during a school-sponsored activity.
- (f) "Explosive" means a destructive device (title 18, section 921(a)(4), United States Code).
- (g) "Expulsion" means an expulsion ordered by the local educational agency's governing board regardless of whether it is suspended, modified, or stipulated.
- (h) "Extortion" means acts described in Penal Code sections 71, 518, and 519.
- (i) "Fiscal year" means the period of July 1 through June 30 (Education Code section 37200).
- (j) "Hate violence" means any act punishable under Penal Code section 422.6.
- (k) An "incident" of a firearm violation by non-student(s) for the purpose of section 11992 is an event on school grounds during school hours, or at a school-sponsored activity, involving a person or persons not enrolled in the school who unlawfully brings or possesses a handgun, rifle, shotgun, or other type of firearm. An event shall be counted as a single incident when it happens at the same time in the same location, regardless of the number of non-students involved. School site administrators or designees are responsible for documenting the incident and reporting the incident to the local educational agency (LEA) staff who are responsible for collecting expulsion data.
- (l) "Knife" means any dirk, dagger, or other weapon with a fixed, sharpened blade fitted primarily for stabbing, a weapon with a blade fitted primarily for stabbing, a weapon with a blade longer than 3 1/2 inches, a folding knife with a blade that locks into place, or a razor with an unguarded blade.
- (m) "Non-student" means a person, regardless of age, not enrolled in the school or program reporting the violation.
- (n) "On school grounds" means the immediate area surrounding the school including, but not limited to, the school building, the gymnasium, athletic fields, and the site parking lots.

- (o) "Robbery" means acts described in Penal Code sections 211 and 212.
- (p) A "school sponsored activity" means any event on the grounds of the school district supervised by district staff at which students are present, including transportation to and from school.
- (q) "Serious physical injury" means serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement (this is the same definition as described in "serious bodily injury" in Penal Code section 243(f)(4)).
- (r) "Sexual assault" means acts defined in Penal Code sections 261, 266(c), 286, 288a, 288(a-c), and 289.
- (s) "Sexual battery" means acts defined in Penal Code section 243.4.
- (t) "Enrolled students", for the purpose of subsections 11992(a)(1) and 11992(a)(2), means students included in the most current California Basic Educational Data System (CBEDS) report for the school.
- (u) "During school hours" means from thirty minutes before the initial school bell to thirty minutes after the closing school bell.

**5 CCR § 11994. Data collection.**

Local educational agencies (LEAs) will submit to the California Department of Education (CDE) the number of incidents of non-student firearm violations and student expulsions specified in section 11992 above for determining persistently dangerous schools. The CDE will use the information collected to determine if a school site meets the criteria in this subchapter. If an LEA contests the CDE's determination that one or more of its schools is persistently dangerous, the LEA may appeal that determination to the State Board of Education based on incorrect data or circumstances that caused the school to be identified as persistently dangerous, but actually increased student and teacher safety at the school.

## ***School Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers***

### **Authority and power to implement school arrest**

#### **LAWS**

##### **EDN 48264.**

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

##### **EDN 48265.**

Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

##### **EDN 48266.**

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

#### **REGULATIONS**

No relevant regulations found.

### **Certification or training**

#### **LAWS**

##### **PEN 832.2.**

Every school police reserve officer, as described in Section 38000 of the Education Code, shall complete a course of training approved by the Commission on Peace Officer Standards and Training relating directly to the role of school police reserve officers.

The school police reserve officer training course shall address guidelines and procedures for reporting offenses to other law enforcement agencies that deal with violence on campus and other school related matters, as determined by the Commission on Peace Officer Standards and Training.



### **PEN 832.3.**

(f) Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete a basic course of training as prescribed by subdivision (a) before exercising the powers of a peace officer. A school police officer shall not be subject to this subdivision while participating as a trainee in a supervised field training program approved by the Commission on Peace Officer Standards and Training.

(g) The commission shall prepare a specialized course of instruction for the training of school peace officers, as defined in Section 830.32, to meet the unique safety needs of a school environment. This course is intended to supplement any other training requirements.

(h) Any school peace officer first employed by a K-12 public school district or California Community College district before July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) no later than July 1, 2002. Any school police officer first employed by a K-12 public school district or California Community College district after July 1, 1999, shall successfully complete the specialized course of training prescribed in subdivision (g) within two years of the date of first employment.

### **REGULATIONS**

No relevant regulations found.

## **MOUs, authorization, and/or funding**

### **LAWS**

#### **EDN 32281.**

(a) Each school district and county office of education is responsible for the overall development of all comprehensive school safety plans for its schools operating kindergarten or any of grades 1 to 12, inclusive.

(b) (1) Except as provided in subdivision (d) with regard to a small school district, the schoolsite council established pursuant to former Section 52012, as it existed before July 1, 2005, or Section 52852 shall write and develop a comprehensive school safety plan relevant to the needs and resources of that particular school.

(2) The schoolsite council may delegate this responsibility to a school safety planning committee made up of the following members:

(A) The principal or the principal's designee.

(B) One teacher who is a representative of the recognized certificated employee organization.

(C) One parent whose child attends the school.

(D) One classified employee who is a representative of the recognized classified employee organization.

(E) Other members, if desired.

(3) The schoolsite council shall consult with a representative from a law enforcement agency in the writing and development of the comprehensive school safety plan.

(4) In the absence of a schoolsite council, the members specified in paragraph (2) shall serve as the school safety planning committee.

(c) Nothing in this article shall limit or take away the authority of school boards as guaranteed under this code.

(d) (1) Subdivision (b) shall not apply to a small school district, as defined in paragraph (2), if the small school district develops a districtwide comprehensive school safety plan that is applicable to each schoolsite.

**EDN 48264.**

The attendance supervisor or his or her designee, a peace officer, a school administrator or his or her designee, or a probation officer may arrest or assume temporary custody, during school hours, of any minor subject to compulsory full-time education or to compulsory continuation education found away from his or her home and who is absent from school without valid excuse within the county, city, or city and county, or school district.

**EDN 48264.5.**

(c) The third time a truancy report is issued within the same school year, the pupil shall be classified as a habitual truant, as defined in Section 48262, and may be referred to, and required to attend, an attendance review board or a truancy mediation program pursuant to Section 48263 or pursuant to Section 601.3 of the Welfare and Institutions Code. If the school district does not have a truancy mediation program, the pupil may be required to attend a comparable program deemed acceptable by the school district's attendance supervisor. If the pupil does not successfully complete the truancy mediation program or other similar program, the pupil shall be subject to subdivision (d).

**EDN 48265.**

Any person arresting or assuming temporary custody of a minor pursuant to Section 48264 shall forthwith deliver the minor either to the parent, guardian, or other person having control, or charge of the minor, or to the school from which the minor is absent, or to a nonsecure youth service or community center designated by the school or district for counseling prior to returning such minor to his home or school, or to a school counselor or pupil services and attendance officer located at a police station for the purpose of obtaining immediate counseling from the counselor or officer prior to returning or being returned to his home or school, or, if the minor is found to have been declared an habitual truant, he shall cause the minor to be brought before the probation officer of the county having jurisdiction over minors.

**EDN 48266.**

Any person taking action pursuant to Sections 48264 and 48265 shall report the matter, and the disposition made by him of the minor to the school authorities of the city, or city and county, or school district and to the minor's parent or guardian.

**REGULATIONS**

No relevant regulations found.

## ***State Education Agency Support***

### **State model policies and implementation support**

#### **LAWS**

##### **EDN 233.**

(a) At the request of the Superintendent of Public Instruction, the State Board of Education shall do all of the following as long as the board's actions do not result in a state mandate or an increase in costs to a state or local program:

- (1) Adopt policies directed toward creating a school environment in kindergarten and grades 1 to 12, inclusive, that is free from discriminatory attitudes and practices and acts of hate violence.
- (2) Revise, as needed, and in accordance with the State Board of Education's adopted Schedule for Curriculum Framework Development and Adoption of Instructional Materials developed pursuant to Section 60200, the state curriculum frameworks and guidelines and the moral and civic education curricula to include human relations education, with the aim of fostering an appreciation of the diversity of California's population and discouraging the development of discriminatory attitudes and practices.
- (3) Establish guidelines for use in teacher and administrator in-service training programs to promote an appreciation of diversity and to discourage the development of discriminatory attitudes and practices that prevent pupils from achieving their full potential.
- (4) Establish guidelines for use in teacher and administrator in-service training programs designed to enable teachers and administrators to prevent and respond to acts of hate violence occurring on their school campuses.
- (5) Establish guidelines designed to raise the awareness and sensitivity of teachers, administrators, and school employees to potentially prejudicial and discriminatory behavior and to encourage the participation of these groups in these programs.
- (6) Develop guidelines relating to the development of nondiscriminatory instructional and counseling methods.
- (7) Revise any appropriate guidelines previously adopted by the board to include procedures for preventing and responding to acts of hate violence.

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

- (1) Prepare guidelines for the design and implementation of local programs and instructional curricula that promote understanding, awareness, and appreciation of the contributions of people with diverse backgrounds and of harmonious relations in a diverse society. The guidelines shall include methods of evaluating the programs and curricula and suggested procedures to ensure coordination of the programs and curricula with appropriate local public and private agencies.
- (2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).
- (3) To the extent possible, provide advice and direct services, consistent with the guidelines developed in paragraph (1), to school districts and county offices of education that implement the programs and curricula developed in paragraph (2).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

(d) Nothing in this section shall be construed to require the governing board of a school district to offer any ethnic studies or human relations courses in the district.

(e) As used in this section, "hate violence" means any act punishable under Section 422.6, 422.7, or 422.75 of the Penal Code.

**EDN 234.3.**

The department shall develop a model handout describing the rights and obligations set forth in Sections 200, 201, and 220 and the policies addressing bias-related discrimination, harassment, intimidation, and bullying in schools. This model handout shall be posted on appropriate department Internet Web sites.

**EDN 32261.**

(a) The Legislature hereby recognizes that all pupils enrolled in the state public schools have the inalienable right to attend classes on school campuses that are safe, secure, and peaceful. The Legislature also recognizes that pupils cannot fully benefit from an educational program unless they attend school on a regular basis. In addition, the Legislature further recognizes that school crime, vandalism, truancy, and excessive absenteeism are significant problems on far too many school campuses in the state.

(b) The Legislature hereby finds and declares that the establishment of an interagency coordination system is the most efficient and long-lasting means of resolving school and community problems of truancy and crime, including vandalism, drug and alcohol abuse, gang membership, gang violence, and hate crimes.

(c) It is the intent of the Legislature in enacting this chapter to support California public schools as they develop their mandated comprehensive safety plans that are the result of a systematic planning process, that include strategies aimed at the prevention of, and education about, potential incidents involving crime and violence on school campuses, and that address the safety concerns of local law enforcement agencies, community leaders, parents, pupils, teachers, administrators, school police, and other school employees interested in the prevention of school crime and violence.

(d) It is the intent of the Legislature in enacting this chapter to encourage school districts, county offices of education, law enforcement agencies, and agencies serving youth to develop and implement interagency strategies, in-service training programs, and activities that will improve school attendance and reduce school crime and violence, including vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, including bullying committed personally or by means of an electronic act, teen relationship violence, and discrimination and harassment, including, but not limited to, sexual harassment.

(e) It is the intent of the Legislature in enacting this chapter that the School/Law Enforcement Partnership shall not duplicate any existing gang or drug and alcohol abuse program currently provided for schools.

(f) As used in this chapter, "bullying" has the same meaning as set forth in subdivision (r) of Section 48900.

(g) As used in this chapter, "electronic act" has the same meaning as set forth in subdivision (r) of Section 48900.

**EDN 32265.**

(a) The partnership shall sponsor at least two regional conferences for school districts, county offices of education, agencies serving youth, allied agencies, community-based organizations, and law

enforcement agencies to identify exemplary programs and techniques that have been effectively used to reduce school crime, including hate crimes, vandalism, drug and alcohol abuse, gang membership and gang violence, truancy, and excessive absenteeism.

- (b) The conference may include, but need not be limited to, information on all of the following topics:
- (1) Interagency collaboration between schools, agencies serving youth, law enforcement agencies, and others.
  - (2) School attendance.
  - (3) School safety.
  - (4) Citizenship education.
  - (5) Drug and alcohol abuse.
  - (6) Child abuse prevention, detection, and reporting.
  - (7) Parental education.
  - (8) Crisis response training.
  - (9) Bullying prevention, including the prevention of acts committed personally or by means of an electronic act.
  - (10) Threat assessment.
  - (11) Conflict resolution and youth mediation.
  - (12) Teen relationship violence.
  - (13) Discrimination and harassment reporting and prevention, including, but not limited to, sexual harassment reporting and prevention.
  - (14) Hate crime reporting and prevention.
  - (15) Reporting and prevention of abuse against pupils with disabilities.

**EDN 32282.**

(b) It is the intent of the Legislature that schools develop comprehensive school safety plans using existing resources, including the materials and services of the partnership, pursuant to this chapter. It is also the intent of the Legislature that schools use the handbook developed and distributed by the School/Law Enforcement Partnership Program entitled “Safe Schools: A Planning Guide for Action” in conjunction with developing their plan for school safety.

**EDN 49350.**

- (a) The Legislature finds and declares all of the following:
- (1) Studies have shown that indicators of risk for violence are associated with a child’s experiences at school. Antisocial behavior or aggressiveness, which is sometimes combined with isolation, withdrawal, hyperactivity, or attention deficit disorder, places children at increased risk of violence.
  - (2) These children are at risk of persistent antisocial behavior, such as skipping school, getting into fights, and misbehaving in class. Young people of both genders who engage in these activities are at increased risk of experiencing drug abuse, juvenile delinquency, violence, dropping out of school, and teen pregnancy.
  - (3) It is well-known that some youth, even though exposed to multiple risk factors, do not succumb to violent, antisocial behavior. One of the defining factors for this outcome is bonding—positive relationships with family members, teachers, police officers, sheriffs’ deputies, and other adults.
  - (4) The Community Policing and Mentoring for School Safety Pilot Program brings this successful law enforcement strategy to California’s schools. By providing funding assistance, strict participation

guidelines and assessments, the Community Policing and Mentoring for School Safety Pilot Program will bring highly trained law enforcement officers onto school campuses to work with students during and after school. Community policing in schools will provide the necessary opportunities for students' active involvement in positive activities, as well as trained personnel to teach them skills so that they may pursue later opportunities successfully. Community policing in schools provides a consistent system of recognition and reinforcement of positive behavior.

(5) Many school safety approaches, including metal detectors, drug-sniffing dogs, armed private security personnel, and similar security measures, are more one-dimensional in their approach to school safety. The Community Policing and Mentoring for School Safety Pilot Program takes a multidimensional approach by involving the community, schools, parents or guardians, and law enforcement personnel in the design of the program that will serve their schools. The relationships developed, as a result of this process and the programs themselves, will be a strong preventative alternative to antisocial behavior in California's schools.

(b) As used in this article, "community policing" means an approach to crime prevention that is founded on developing positive relationships between law enforcement and the community. In community policing, law enforcement becomes an integral facet of the community because officers work directly with the community and develop positive relationships with members of the community. Community members become more involved in their community's activities because they know they have the personal support of law enforcement. Community policing identifies factors that put young people at risk for violence in order to reduce or eliminate these factors and strengthen protective factors such as positive relationships with adults.

#### **EDN 49350.5.**

(a) In order to ensure that students enrolled in the California public schools attend campuses that are safe, secure, orderly, and purposeful places in which students and staff are free to learn and teach without the threat of physical or psychological harm, it is the intent of the Legislature that two-year grants be provided to the ABC Unified School District and the Downey Unified School District to establish community policing school safety and mentoring programs.

(b) Grants under this article shall be awarded in order to develop and implement a plan that accomplishes both of the following:

(1) Provision for a continuum of responses to school safety needs by employees of school districts and local law enforcement agencies.

(2) Demonstration of a collaborative and integrated approach for implementing a system of providing safe and secure school environments between the school districts and local law enforcement agencies.

(c) Grant funds shall be expended as determined by the multiagency juvenile justice coordinating council, established pursuant to subdivision (b) of Section 49351.

(d) Grants under this article shall not be used to provide funding for school resource officers.

#### **EDN 49351.**

(a) (1) The Community Policing and Mentoring for School Safety Pilot Program is hereby established. The Community Policing and Mentoring for School Safety Pilot Program shall be administered by the State Department of Education for the purpose of reducing juvenile crime and delinquency. The Superintendent of Public Instruction shall award grants to the ABC Unified School District and the Downey Unified School District to accomplish the goals set forth in subdivision (b) of Section 49350.5.

(2) Programs funded pursuant to this article may include, but not necessarily be limited to, all of the following methods of community policing:

(A) Teaching conflict resolution classes.

- (B) Teaching crime prevention classes.
- (C) Operating afterschool programs.
- (D) Provide mentoring.
- (E) Patrolling the community that encompasses the school district participating in the Community Policing and Mentoring for School Safety Pilot Program.

(b) Each school district that receives a grant under this article shall be required to establish a multiagency juvenile justice coordinating council that shall develop and implement a continuum of community-based responses to juvenile crime in the school setting.

(c) The coordinating councils established pursuant to subdivision (b) shall, at a minimum, include the school district, law enforcement agency, a volunteer police representative, parents, and at least two community organizations. The coordinating councils shall develop a comprehensive, multiagency plan that identifies resources and strategies for providing an effective targeted community policing plan, for activities relating to prevention, intervention, supervision, and treatment of at-risk youths in school settings.

**EDN 49352.**

The coordinating council established pursuant to subdivision (b) of Section 49351 shall accomplish all of the following:

(a) Complete an identification and prioritization of the schools, and other areas in the community, that face a significant public safety risk from juvenile crime, such as gang activity, daylight burglary, late-night robbery, vandalism, truancy, controlled substance sales, firearm-related violence, and juvenile alcohol use within the council's jurisdiction.

(b) Develop information and intelligence sharing systems to ensure that school districts actions are fully coordinated with local law enforcement agencies, and to provide data for measuring the success of the grantee in achieving its goals. The plan shall develop goals related to the outcome measures that shall be used to determine the effectiveness of the program, at participating pilot sites.

(c) Identify outcome measures which shall include, but not necessarily be limited to, each of the following:

- (1) The rate of drug- and alcohol-related offenses.
- (2) The rate of crimes against persons.
- (3) The rate of crimes against property.
- (4) Incidence of students in possession of firearms or other weapons.

**EDN 49353.**

(a) The State Department of Education shall award grants under this article to implement the plan developed pursuant to subdivision (b) of Section 49350.5 for a two-year period. Funding shall be used to supplement, rather than supplant, existing programs. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and delinquency in a school setting. In no case shall the total amount of grant funds for the two-year period exceed two hundred thousand dollars (\$200,000).

(b) (1) No grant shall be awarded unless the applicant does both of the following:

(A) Makes matching funds available in an amount equal to 50 percent or more of the amount of the grant.

(B) Demonstrates a commitment by local law enforcement agencies or other participating agencies to contribute matching funds in an amount equal to 50 percent or more of the amount of the grant.

(2) For purposes of this section, credit towards the matching fund requirement may be granted in an amount equal to the value of an in-kind contribution made on behalf of the school district or on behalf of a law enforcement agency or another participating agency.

**EDN 49354.**

The State Department of Education shall establish minimum standards, funding schedules, and procedures for grants, which shall take into consideration, but not necessarily be limited to, all of the following:

- (a) Size of the eligible high-risk youth population.
- (b) Demonstrated ability to administer the program.
- (c) Demonstrated ability to provide and develop a continuum of responses to juvenile crime and delinquency that includes prevention, intervention, diversion, suppression, and incapacitation.
- (d) Demonstrated ability to implement a plan that provides a collaborative and integrated approach to juvenile crime and delinquency in a school setting.
- (e) Demonstrated history of maximizing federal, state, local, and private funding sources.
- (f) Likelihood that the program will continue to operate after state grant funding ends.

**EDN 49355.**

The State Department of Education shall create an evaluation design for the Community Policing and Mentoring for School Safety Pilot Program. School districts that receive grants under this article shall use this evaluation design to assess the effectiveness of their programs. These school districts shall transmit their assessments to the department. The department shall develop an interim report to be submitted to the Legislature on or before March 1, 2000, and a final analysis of the grant program in a report to be submitted to the Legislature on or before March 1, 2002.

**EDN 51263.**

The State Department of Education shall make available information on model drug and alcohol abuse prevention education programs developed and funded pursuant to Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code, Chapter 7 (commencing with Section 13860) of Title 6 of Part 4 of the Penal Code, and other public and private sources.

**EDN 51264.**

- (a) The State Department of Education shall prepare and distribute to school districts and county offices of education guidelines for incorporating in-service training in gang violence and drug and alcohol abuse prevention for teachers, counselors, athletic directors, school board members, and other educational personnel into the staff development plans of all school districts and county offices of education.
- (b) The department shall, upon request, assist school districts and county offices of education in developing comprehensive gang violence and drug and alcohol abuse prevention in-service training programs. The department's information and guidelines, to the maximum extent possible, shall encourage school districts and county offices of education to avoid duplication of effort by sharing resources, adapting or adopting model in-service training programs, developing joint and collaborative programs, and coordinating efforts with existing state staff development programs, county gang violence and drug and alcohol staff development programs, county health departments, county and city law enforcement agencies, and other public and private agencies providing health, drug, alcohol, gang violence prevention, or other related services at the local level.



(c) The department shall assist school districts and county offices of education in qualifying for the receipt of federal and state funds to support their gang violence and drug and alcohol abuse prevention in-service training programs.

(d) Each school that chooses to utilize the provisions of this article related to in-service training in gang violence and drug and alcohol abuse prevention, is encouraged to develop a single plan to strengthen its gang violence and drug and alcohol abuse prevention efforts. If a school develops or has developed a school improvement plan pursuant to Article 2 (commencing with Section 52010) of Chapter 6 of Part 28, or a school safety plan pursuant to Article 5 (commencing with Section 32280) of Chapter 2.5 of Part 19, it is encouraged to incorporate into that plan, where appropriate, the gang violence and drug and alcohol prevention plan that it has developed.

(e) The department shall consult with the Office of Emergency Services regarding gang violence.

#### **EDN 51269.**

(a) The State Department of Education shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for state and federal drug, alcohol, and tobacco education funds.

(b) The State Department of Education, in consultation with the Department of Justice, Office of Emergency Services, the State Department of Public Health, and the State Department of Health Care Services, shall develop, to the extent possible, an ongoing statewide monitoring and assessment system to provide current and reliable data on the utilization of resources for programs for prevention of and early intervention for drug, alcohol, and tobacco abuse. The purpose of the system shall be to facilitate improved planning and program delivery among state and local agencies, including law enforcement, juvenile justice, county health, and county drug and alcohol agencies and programs, and communities.

#### **REGULATIONS**

No relevant regulations found.

### **Funding appropriations**

#### **LAWS**

#### **EDN 233.**

(b) The State Department of Education, in accordance with policies established by the State Board of Education for purposes of this subdivision, shall do all of the following:

(2) Provide grants, from funds appropriated for that purpose, to school districts and county offices of education to develop programs and curricula consistent with the guidelines developed in paragraph (1).

(c) The State Board of Education shall carry out this section only if private funds, in an amount sufficient to pay for related State Department of Education staff activities on behalf of the board, are made available.

#### **EDN 233.8.**

(a) The State Department of Education shall provide regional training to assist school district personnel in the identification and determination of hate violence on school campuses.

(b) (1) A grant program for school districts shall be established by the department for the purpose of enabling pupils and teachers to participate in educational programs focused on fostering ethnic sensitivity, overcoming racism and prejudice, and countering hatred and intolerance. It is the intent of the

Legislature that the grants be awarded on a competitive basis with similar sized school districts and county offices of education competing against each other for grant funds. The Superintendent of Public Instruction shall establish grant competition bands as follows:

- (A) Districts with less than 2,501 average daily attendance.
- (B) Districts with more than 2,500 average daily attendance but less than 5,001.
- (C) Districts with more than 5,000 average daily attendance but less than 15,001.
- (D) Districts with more than 15,000 average daily attendance but less than 30,001.
- (E) Districts with more than 30,000 average daily attendance.
- (F) County offices of education.

(2) The Superintendent of Public Instruction shall allocate the appropriated funds for competitive grants to each of the competitive bands based on the amount of average daily attendance in all districts in the competitive range compared to the statewide average daily attendance in all school districts and county offices of education.

The grant program is not required to be implemented under this section unless funds are appropriated for that purpose.

**EDN 32282.**

(c) Grants to assist schools in implementing their comprehensive school safety plan shall be made available through the partnership as authorized by Section 32285.

**EDN 32285.**

(a) The governing board of a school district, on behalf of one or more schools within the district that have developed a school safety plan, may apply to the Superintendent of Public Instruction for a grant to implement school safety plans. The partnership shall award grants for school safety plans that include, but are not limited to, the following criteria:

- (1) Assessment of the recent incidence of crime committed on the school campus.
- (2) Identification of appropriate strategies and programs that will provide or maintain a high level of school safety.
- (3) Development of an action plan, in conjunction with local law enforcement agencies, for implementing appropriate safety strategies and programs, and determining the fiscal impact of executing the strategies and programs. The action plan shall identify available resources which will provide for implementation of the plan.

(b) The Superintendent of Public Instruction shall award grants pursuant to this section to school districts for the implementation of individual school safety plans in an amount not to exceed five thousand dollars (\$5,000) for each school. No grant shall be made unless the school district makes available, for purposes of implementing the school safety plans, an amount of funds equal to the amount of the grant. Grants should be awarded through a competitive process, based upon criteria including, but not limited to, the merit of the proposal and the need for imposing school safety, based on school crime rates.

(c) Any school receiving a grant under this section shall submit to the Superintendent of Public Instruction verified copies of its schoolsite crime report annually for three consecutive years following the receipt of the grant to study the impact of the implementation of the school safety plan on the incidence of crime on the campus of the school.

**EDN 48911.1.**

(c) School districts may continue to claim apportionments for each pupil assigned to and attending a supervised suspension classroom provided as follows:

- (1) The supervised suspension classroom is staffed as otherwise provided by law.
  - (2) Each pupil has access to appropriate counseling services.
  - (3) The supervised suspension classroom promotes completion of schoolwork and tests missed by the pupil during the suspension.
  - (4) Each pupil is responsible for contacting his or her teacher or teachers to receive assignments to be completed while the pupil is assigned to the supervised suspension classroom. The teacher shall provide all assignments and tests that the pupil will miss while suspended. If no classroom work is assigned, the person supervising the suspension classroom shall assign schoolwork.
- (f) Apportionments claimed by a school district for pupils assigned to supervised suspension shall be used specifically to mitigate the cost of implementing this section.

**EDN 49350.5.**

- (a) In order to ensure that students enrolled in the California public schools attend campuses that are safe, secure, orderly, and purposeful places in which students and staff are free to learn and teach without the threat of physical or psychological harm, it is the intent of the Legislature that two-year grants be provided to the ABC Unified School District and the Downey Unified School District to establish community policing school safety and mentoring programs.
- (b) Grants under this article shall be awarded in order to develop and implement a plan that accomplishes both of the following:
  - (1) Provision for a continuum of responses to school safety needs by employees of school districts and local law enforcement agencies.
  - (2) Demonstration of a collaborative and integrated approach for implementing a system of providing safe and secure school environments between the school districts and local law enforcement agencies.
- (c) Grant funds shall be expended as determined by the multiagency juvenile justice coordinating council, established pursuant to subdivision (b) of Section 49351.
- (d) Grants under this article shall not be used to provide funding for school resource officers.

**EDN 49353.**

- (a) The State Department of Education shall award grants under this article to implement the plan developed pursuant to subdivision (b) of Section 49350.5 for a two-year period. Funding shall be used to supplement, rather than supplant, existing programs. Grant funds shall be used for programs that are identified in the local action plan as part of a continuum of responses to reduce juvenile crime and delinquency in a school setting. In no case shall the total amount of grant funds for the two-year period exceed two hundred thousand dollars (\$200,000).
- (b) (1) No grant shall be awarded unless the applicant does both of the following:
  - (A) Makes matching funds available in an amount equal to 50 percent or more of the amount of the grant.
  - (B) Demonstrates a commitment by local law enforcement agencies or other participating agencies to contribute matching funds in an amount equal to 50 percent or more of the amount of the grant.
- (2) For purposes of this section, credit towards the matching fund requirement may be granted in an amount equal to the value of an in-kind contribution made on behalf of the school district or on behalf of a law enforcement agency or another participating agency.

## REGULATIONS

### **5 CCR § 11987. Purpose.**

(a) These regulations fulfill a mandate of Education Code section 41513, which requires the State Superintendent of Public Instruction (SSPI) and the Attorney General to adopt regulations to implement the School Safety Consolidated Competitive Grant program established by sections 41510 through 41514 of the Education Code. This program consists of two competitive grant programs, which are hereinafter referred to as the School Community Violence Prevention (SCVP) Grant program and the School Safety and Violence Prevention Training Grant Program. The regulations shall specify application submission rules, criteria for scoring applications and awarding grants, allowable/non-allowable uses of grant funds, annual reporting requirements for grant recipients, and the manner in which grant recipients will be reimbursed for program expenditures.

(b) The program shall be jointly administered by the SSPI and the Attorney General's Office, through the School Law Enforcement Partnership (S/LEP), as authorized by Education Code section 32262.

### **5 CCR § 11987.7. School safety and violence prevention training grant.**

(a) The S/LEP shall award a maximum of \$400,000 per year of the annual SCVP appropriation for one grant to a county office of education for the purpose of providing statewide and regional training in school safety and violence prevention methods. The grant period shall be a maximum of five years in duration.

(b) The S/LEP shall issue an advance of not more than \$50,000 to the grant recipient upon the award of the grant. The remaining funds shall be issued to the grant recipient as reimbursement for authorized expenditures, upon receipt of an invoice from the accounting office of the grant recipient. Invoices shall be submitted quarterly to the S/LEP staff. Invoices for payment are subject to review and approval by the S/LEP staff.

(c) Applications for the School Safety and Violence Prevention Training Grant shall be submitted no later than March 1 of a year in which the grant will be awarded. Applications for grant funds shall contain the following elements:

- (1) The application shall describe the applicant's ability and experience to coordinate a statewide training program, including arranging for the delivery of training throughout the 11 established CDE regional training areas.
- (2) The application shall contain a comprehensive plan for administering the training grant that includes, but is not limited to, how the applicant will: schedule and arrange for delivery of a specified number of regional trainings; secure experienced trainers; reimburse the trainers for travel expenses; sponsor and present an orientation and update meeting for the 11 regional training coordinators; conduct a focus group of trainers, coordinators, and S/LEP staff to revise and update the training materials; purchase necessary training materials; evaluate the training; coordinate an annual meeting among S/LEP staff and the 11 LEA regional training coordinators; and maintain regular contact with S/LEP state staff.
- (3) The application shall contain a line item budget, along with an explanatory narrative.
- (4) The application shall contain an assurance that an independent audit will be conducted in years two and four of the grant recipient's use of the funds. The purpose of the audit shall be to determine if the funds have been used as required by the law and regulation and as stated in the grant recipient's application.
- (5) Applicants shall download and print the "General Assurances" (revised June, 2007) and "Drug Free Workplace" (revised June, 2007) forms from the CDE's "funding forms" web page (<http://www.cde.ca.gov/fg/fo/fm>). These documents, which are incorporated by reference, shall be submitted with the application.
- (6) Applications shall meet the following technical requirements:

- (A) An original grant application and four copies shall be submitted.
  - (B) The original application shall include all original signatures in blue ink.
  - (C) The application shall be in 12-point or greater Arial font, single-spaced, with one-inch minimum margins. If smaller font sizes or margins are used in an application, the S/LEP shall compute the number of excess characters added to the application as a result, and draw a red line through the extra characters. Application reviewers shall not be allowed to use the red-lined characters in the application review.
  - (D) The application shall be submitted on standard white, 8 1/2 X 11-inch paper. The narrative section shall not exceed 10 pages. If the narrative exceeds 10 pages, the S/LEP will draw a red line through the extra pages and will not allow application raters to look at those pages.
  - (E) Applications shall be stapled or clipped together for submission.
- (d) Each application shall be screened by the S/LEP to ensure that it contains all required elements. Each application passing the screening process shall be evaluated for compliance with applicable statutes and these regulations, and for the degree to which the application provides:
- (1) a clear demonstration of the applicant's extensive experience in developing, implementing, and coordinating regional training projects throughout the state.
  - (2) a plan of administering the grant that contains enough specific detail to assure that the applicant is capable of successfully implementing a training program that includes: recruitment and training of knowledgeable trainers; revision and update of training materials; the scheduling of trainings and obtaining of training facilities; the evaluation of the training program; the administration of the financial aspects of the program including reimbursing trainers; and the presentation of annual conferences for staff development and for updating of the training program.
  - (3) a detailed budget that reasonably reflects the proposed project.
- (e) Applications will be ranked in accordance with the evaluation described in subdivision (d) and shall be funded in accordance with their rank.
- (f) A grant applicant that chooses to appeal the results of the grant application process shall file a written appeal to the S/LEP within five working days of the announcement of the results. Protests shall be limited to the grounds that the S/LEP failed to correctly apply the process for reviewing the applications as specified in these regulations. The S/LEP shall review the appeal and determine if the S/LEP failed to correctly apply the process for reviewing applications. The decision of the S/LEP shall be the final administrative action afforded the appellant.
- (g) Training grant funds may be used for: Salaries and benefits for the statewide coordinator, regional training coordinators, and clerical support personnel; travel costs for regional trainings and for statewide meetings and trainings for the statewide and regional training coordinators and trainers; training materials, miscellaneous supplies directly related to the trainings; services and operating costs, including rental of training rooms; indirect cost not to exceed the indirect cost rate annually assigned to the grant recipient by CDE; and audit costs. Training grant funds may not be used for: Out-of-state travel; acquisition, rents, leases and utilities for facilities (except rentals of training rooms); or purchases of vehicles.
- (h) Grant funds shall be used in accordance with law and these regulations and as proposed in the approved application or a budget revision approved by the S/LEP.
- (i) Without prior approval from the S/LEP, budget adjustments shall be made of no more than \$500, or ten percent of the line item from which the funds are being moved, whichever is greater.
- (j) The grant recipient shall submit an annual report containing a progress report on the implementation of the program described in the grant application, a description of program activities, and an evaluation of

the effectiveness of the training sessions which have been provided. If adequate progress in implementation of the grant program is not demonstrated via annual reports, site visits, or other means, the S/LEP may terminate the grant award and provide no further grant funding.

(k) Grant recipients shall maintain accounting records and other evidence pertaining to costs incurred during the grant award period and thereafter for five full years from the date of the final payment of grant funds. The S/LEP shall be permitted to audit, review, and inspect the activities, books, documents, papers, and records relating to the grant during the progress of the work and for five years following final allocation of funds.

(l) Funds shall be issued to the grant recipient as reimbursement for authorized expenditures, upon receipt of an invoice from the accounting office of the grantee. Invoices for payment are subject to review and approval by S/LEP staff. Reimbursements shall not be processed if annual reporting requirements have not been met. Final invoices shall be submitted within four months of the end of the grant period.

## ***Other or Uncategorized***

### **Professional immunity or liability**

#### **LAWS**

##### **EDN 32281.**

(e) (1) When a principal or his or her designee verifies through local law enforcement officials that a report has been filed of the occurrence of a violent crime on the schoolsite of an elementary or secondary school at which he or she is the principal, the principal or the principal's designee may send to each pupil's parent or legal guardian and each school employee a written notice of the occurrence and general nature of the crime. If the principal or his or her designee chooses to send the written notice, the Legislature encourages the notice be sent no later than the end of business on the second regular work day after the verification. If, at the time of verification, local law enforcement officials determine that notification of the violent crime would hinder an ongoing investigation, the notification authorized by this subdivision shall be made within a reasonable period of time, to be determined by the local law enforcement agency and the school district. For purposes of this section, an act that is considered a "violent crime" shall meet the definition of Section 67381 and be an act for which a pupil could or would be expelled pursuant to Section 48915.

(2) Nothing in this subdivision shall create any liability in a school district or its employees for complying with paragraph (1).

##### **EDN 44807.**

Every teacher in the public schools shall hold pupils to a strict account for their conduct on the way to and from school, on the playgrounds, or during recess. A teacher, vice principal, principal, or any other certificated employee of a school district, shall not be subject to criminal prosecution or criminal penalties for the exercise, during the performance of his duties, of the same degree of physical control over a pupil that a parent would be legally privileged to exercise but which in no event shall exceed the amount of physical control reasonably necessary to maintain order, protect property, or protect the health and safety of pupils, or to maintain proper and appropriate conditions conducive to learning. The provisions of this section are in addition to and do not supersede the provisions of Section 49000.

##### **EDN 48201.**

(2) A school district, or school district officer or employee, is not civilly or criminally liable for providing information under this subdivision unless it is proven that the information was false and that the district or district officer or employee knew or should have known that the information was false or the information was provided with a reckless disregard for its truth or falsity.

##### **EDN 48902.**

(a) The principal of a school or the principal's designee shall, before the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal's designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the pupil that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal's designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal's designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or nonpupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

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

(e) The principal of a school or the principal's designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in Section 1415(k)(6) of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil's special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

#### **EDN 48907.**

(g) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a pupil engaged in the conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

#### **EDN 49334.**

If a school employee initially notifies a law enforcement agency regarding a student or adult who possesses an injurious object while upon school premises or while under the authority of school personnel, the employee may not be subject to any civil or administrative proceeding, including any disciplinary action, for violation of any local policy or procedure relating to the notification of a law enforcement agency. The employee shall conform to locally adopted procedures after exercising his or her personal option to notify a law enforcement agency.

### **REGULATIONS**

No relevant regulations found.

## **Community input or involvement**

### **LAWS**

#### **EDN 32282.**

(d) Each schoolsite council or school safety planning committee in developing and updating a comprehensive school safety plan shall, where practical, consult, cooperate, and coordinate with other schoolsite councils or school safety planning committees.

#### **EDN 48263.**

If the school attendance review board or probation officer determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board or probation officer shall



direct the pupil or the pupil's parents or guardians, or both, to make use of those community services. The school attendance review board or probation officer may require, at any time that it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

**EDN 48900.6.**

As part of or instead of disciplinary action prescribed by this article, the principal of a school, the principal's designee, the superintendent of schools, or the governing board may require a pupil to perform community service on school grounds or, with written permission of the parent or guardian of the pupil, off school grounds, during the pupil's nonschool hours. For the purposes of this section, "community service" may include, but is not limited to, work performed in the community or on school grounds in the areas of outdoor beautification, community or campus betterment, and teacher, peer, or youth assistance programs. This section does not apply if a pupil has been suspended, pending expulsion, pursuant to Section 48915. However, this section applies if the recommended expulsion is not implemented or is, itself, suspended by stipulation or other administrative action.

**EDN 51269.**

(a) The State Department of Education shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for state and federal drug, alcohol, and tobacco education funds.

(b) The State Department of Education, in consultation with the Department of Justice, Office of Emergency Services, the State Department of Public Health, and the State Department of Health Care Services, shall develop, to the extent possible, an ongoing statewide monitoring and assessment system to provide current and reliable data on the utilization of resources for programs for prevention of and early intervention for drug, alcohol, and tobacco abuse. The purpose of the system shall be to facilitate improved planning and program delivery among state and local agencies, including law enforcement, juvenile justice, county health, and county drug and alcohol agencies and programs, and communities.

**PEN 13825.4.**

Community-based organizations and nonprofit agencies that receive funds under this chapter shall utilize the funds to provide services and activities designed to prevent or deter at-risk youth from participating in gangs, criminal activity, or violent behavior.

(a) These prevention and intervention efforts shall include, but not be limited to, any of the following:

(1) Services and activities designed to do any of the following:

(A) Teach alternative methods for resolving conflicts and responding to violence, drugs, and crime.

(B) Develop positive and life-affirming attitudes and behaviors.

(C) Build self-esteem.

(2) Recreational, educational or cultural activities.

(3) Counseling or mentoring services.

(4) Economic development activities.

(b) Funds allocated under this chapter may not be used for services or activities related to suppression, law enforcement, incarceration, or other purposes not related to the prevention and deterrence of gangs, crime, and violence.

Nothing in this paragraph shall prevent funds allocated under this chapter from being used for violence prevention and gang crime deterrence services provided by community-based organizations and nonprofit agencies to youths incarcerated in juvenile detention facilities.

(c) Services and activities provided with funds under this chapter shall be used for at-risk youth who are defined as persons from age 5 to 20 years of age and who fall into one or more of the following categories:

- (1) Live in a high-crime or high-violence neighborhood as identified by local or federal law enforcement agencies.
- (2) Live in a low-economic neighborhood as identified by the U.S. Census or come from an impoverished family.
- (3) Are excessively absent from school or are doing poorly in school as identified by personnel from the youth's school.
- (4) Come from a socially dysfunctional family as identified by local or state social service agencies.
- (5) Have had one or more contacts with the police.
- (6) Have entered the juvenile justice system.
- (7) Are identified by the juvenile justice system as being at risk.
- (8) Are current or former gang members.
- (9) Have one or more family members living at home who are current or former members of a gang.
- (10) Are identified as wards of the court, as defined in Section 601 of the Welfare and Institutions Code.

(d) Except as provided in subdivision (e), in carrying out a program of prevention and intervention services and activities with funds received under this chapter, community-based organizations and nonprofit agencies shall do all of the following:

- (1) Collaborate with other local community-based organizations, nonprofit agencies or local agencies providing similar services, local schools, local law enforcement agencies, residents and families of the local community, private businesses in the local community, and charitable or religious organizations, for purposes of developing plans to provide a program of prevention and intervention services and activities with funds provided under this chapter.
- (2) Identify other community-based organizations, nonprofit agencies, local agencies, and charitable or religious organizations in the local community that can serve as a resource in providing services and activities under this chapter.
- (3) Follow the public health model approach in developing and carrying out a program to prevent, deter or reduce youth gangs, crime or violence by (A) identifying risk factors of the particular population to be targeted, (B) implementing protective factors to prevent or reduce gangs, crime or violence in the particular community to be serviced, and (C) designing community guidelines for prevention and intervention.
- (4) Provide referral services to at-risk youth who are being served under this chapter to appropriate organizations and agencies where the community-based organization or nonprofit agency can readily identify a need for counseling, tutorial, family support, or other types of services.
- (5) Provide the parents and family of the at-risk youth with support, information, and services to cope with the problems the at-risk youth, the parents, and the family are confronting.
- (6) Involve members of the at-risk target population in the development, coordination, implementation, and evaluation of their program of services and activities.

(7) Objectively evaluate the effectiveness of their services and activities to determine changes in attitudes or behaviors of the at-risk youth being served under this chapter towards gangs, crime, and violence.

(e) Providers of programs that operate in juvenile detention facilities shall not be required to meet the criteria specified in paragraph (5) of subdivision (d) for those programs offered only in those facilities.

**PEN 13860.**

The Legislature finds and declares that a substantial drug abuse and drug trafficking problem exists among school-age children on and around school campuses in the State of California. By enacting this chapter, it is the intention of the Legislature to support increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug offices to suppress trafficking and prevent drug abuse among school age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and drug abuse agencies. As used in this chapter, drugs are defined as marijuana, inhalants, narcotics, dangerous drugs, pharmaceuticals, glue and alcohol. It is the further intention of the Legislature to establish a program of financial and technical assistance for local law enforcement and school districts.

**PEN 13861.**

There is hereby created in the Office of Emergency Services the Suppression of Drug Abuse in Schools Program. All funds made available to the Office of Emergency Services for the purposes of this chapter shall be administered and disbursed by the Director of Emergency Services in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and criteria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression of Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Emergency Services. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among schoolage children and to curtail drug trafficking in and around school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Director of Emergency Services, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863, shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of these guidelines and procedures, a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the

Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

**PEN 13862.**

Law enforcement agencies and school districts receiving funds under this chapter shall concentrate enhanced apprehension, prevention, and education efforts and resources on drug abuse and drug trafficking in and around school campuses.

(a) These enhanced apprehension, prevention, and education efforts shall include, but not be limited to:

(1) Drug traffic intervention programs.

(2) School and classroom-oriented programs, using tested drug abuse education curriculum that provides indepth and accurate information on drugs, which may include the participation of local law enforcement agencies and qualified drug abuse prevention specialists and which are designed to increase teachers' and students' awareness of drugs and their effects.

(3) Family oriented programs aimed at preventing drug abuse which may include the participation of community-based organizations experienced in the successful operation of such programs.

(4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. However, if the agency receiving funds under this chapter is a city agency and the program does not involve any county agency, or if a county agency is involved and the county board of supervisors consents, the committee shall be established and appointed by the city council. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board or city council. The committee shall be composed of, at a minimum, the following:

(A) Local law enforcement executives.

(B) School district executives.

(C) Schoolsite staff, which includes administrators, teachers, or other credentialed personnel.

(D) Parents.

(E) Students.

(F) School peace officers.

(G) County drug program administrators designated pursuant to Section 11962 of the Health and Safety Code.

(H) Drug prevention program executives.

(5) Development and distribution of appropriate written and audio-visual aids for training of school and law enforcement staff for handling drug-related problems and offenses. Appropriate existing aids may be utilized in lieu of development of new materials.

(6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs.

(7) Development of a coordinated intervention system that identifies students with chronic drug abuse problems and facilitates their referral to a drug abuse treatment program.

(b) Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between local law enforcement and local school districts in cooperation with county drug program offices. These efforts shall include, but not be limited to, the concentration of apprehension efforts in "problem" areas identified by local school authorities.

(c) Funds appropriated pursuant to this chapter may be used in part to support state-level development and statewide distribution of appropriate written and audio-visual aids for public awareness and training of

school and law enforcement staff for handling drug-related problems and offenses. When existing aids can be identified, these aids may be utilized in lieu of the development of new aids.

**PEN 13864.**

There is hereby created in the Office of Emergency Services the Comprehensive Alcohol and Drug Prevention Education component of the Suppression of Drug Abuse in Schools Program in public elementary schools in grades 4 to 6, inclusive. Notwithstanding Section 13861 or any other provision in this code, all Comprehensive Alcohol and Drug Prevention Education component funds made available to the Office of Emergency Services in accordance with the Classroom Instructional Improvement and Accountability Act shall be administered by and disbursed to county superintendents of schools in this state by the Director of Emergency Services. All applications for that funding shall be reviewed and evaluated by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education.

(a) The Director of Emergency Services is authorized to allocate and award funds to county department superintendents of schools for allocation to individual school districts or to a consortium of two or more school districts. Applications funded under this section shall comply with the criteria, policies, and procedures established under subdivision (b) of this section.

(b) As a condition of eligibility for the funding described in this section, the school district or consortium of school districts shall have entered into an agreement with a local law enforcement agency to jointly implement a comprehensive alcohol and drug abuse prevention, intervention, and suppression program developed by the Office of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, containing all of the following components:

- (1) A standardized age-appropriate curriculum designed for pupils in grades 4 to 6, inclusive, specifically tailored and sensitive to the socioeconomic and ethnic characteristics of the target pupil population. Although new curricula shall not be required to be developed, existing curricula may be modified and adapted to meet local needs. The elements of the standardized comprehensive alcohol and drug prevention education program curriculum shall be defined and approved by the Governor's Policy Council on Drug and Alcohol Abuse, as established by Executive Order No. D-70-80.
- (2) A planning process that includes assessment of the school district's characteristics, resources, and the extent of problems related to juvenile drug abuse, and input from local law enforcement agencies.
- (3) A school district governing board policy that provides for a coordinated intervention system that, at a minimum, includes procedures for identification, intervention, and referral of at-risk alcohol- and drug-involved youth, and identifies the roles and responsibilities of law enforcement, school personnel, parents, and pupils.
- (4) Early intervention activities that include, but are not limited to, the identification of pupils who are high risk or have chronic drug abuse problems, assessment, and referral for appropriate services, including ongoing support services.
- (5) Parent education programs to initiate and maintain parental involvement, with an emphasis for parents of at-risk pupils.
- (6) Staff and in-service training programs, including both indepth training for the core team involved in providing program services and general awareness training for all school faculty and administrative, credentialed, and noncredentialed school personnel.
- (7) In-service training programs for local law enforcement officers.
- (8) School, law enforcement, and community involvement to ensure coordination of program services. Pursuant to that coordination, the school district or districts and other local agencies are encouraged to use a single community advisory committee or task force for drug, alcohol, and tobacco abuse

prevention programs, as an alternative to the creation of a separate group for that purpose under each state or federally funded program.

(c) The application of the county superintendent of schools shall be submitted to the Office of Emergency Services. Funds made available to the Office of Emergency Services for allocation under this section are intended to enhance, but shall not supplant, local funds that would, in the absence of the Comprehensive Alcohol and Drug Prevention Education component, be made available to prevent, intervene in, or suppress drug abuse among schoolage children. For districts that are already implementing a comprehensive drug abuse prevention program for pupils in grades 4 to 6, inclusive, the county superintendent shall propose the use of the funds for drug prevention activities in school grades other than 4 to 6, inclusive, compatible with the program components of this section. The expenditure of funds for that alternative purpose shall be approved by the Director of Emergency Services.

(1) Unless otherwise authorized by the Office of Emergency Services, each county superintendent of schools shall be the fiscal agent for any Comprehensive Alcohol and Drug Prevention Education component award, and shall be responsible for ensuring that each school district within that county receives the allocation prescribed by the Office of Emergency Services. Each county superintendent shall develop a countywide plan that complies with program guidelines and procedures established by the Office of Emergency Services pursuant to subdivision (d). A maximum of 5 percent of the county's allocation may be used for administrative costs associated with the project.

(2) Each county superintendent of schools shall establish and chair a local coordinating committee to assist the superintendent in developing and implementing a countywide implementation plan. This committee shall include the county drug administrator, law enforcement executives, school district governing board members and administrators, school faculty, parents, and drug prevention and intervention program executives selected by the superintendent and approved by the county board of supervisors.

(d) The Director of Emergency Services, in consultation with the State Department of Health Care Services and the State Department of Education, shall prepare and issue guidelines and procedures for the Comprehensive Alcohol and Drug Prevention Education component consistent with this section.

(e) The Comprehensive Alcohol and Drug Prevention Education component guidelines shall set forth the terms and conditions upon which the Office of Emergency Services is prepared to award grants of funds pursuant to this section. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(f) Funds awarded under the Comprehensive Alcohol and Drug Prevention Education Program shall not be subject to Section 10318 of the Public Contract Code.

(g) Funds available pursuant to Item 8100-111-001 and Provision 1 of Item 8100-001-001 of the Budget Act of 1989, or the successor provision of the appropriate Budget Act, shall be allocated to implement this section.

(h) The Director of Emergency Services shall collaborate, to the extent possible, with other state agencies that administer drug, alcohol, and tobacco abuse prevention education programs to streamline and simplify the process whereby local educational agencies apply for drug, alcohol, and tobacco education funding under this section and under other state and federal programs. The Office of Emergency Services, the State Department of Health Care Services, the State Department of Education, and other state agencies, to the extent possible, shall develop joint policies and collaborate planning in the administration of drug, alcohol, and tobacco abuse prevention education programs.

#### **PEN 13872.**

The crimes that shall be the focus of this chapter shall include a wide variety of incidents, which reflect obvious racial, ethnic, or religious motivations, ranging from vandalizing a place of worship to assaults

between members of gangs, including, but not limited to, incidents that occur on school grounds and between gang members and any other incidents that law enforcement officers on a case-by-case basis identify as having a racial, ethnic or religious motivation. They shall not include incidents of discrimination in employment.

## **REGULATIONS**

No relevant regulations found.

## **Other or Uncategorized**

### **LAWS**

#### **EDN 48908.**

All pupils shall comply with the regulations, pursue the required course of study, and submit to the authority of the teachers of the schools.

### **REGULATIONS**

#### **5 CCR § 300. Duties generally.**

Every pupil shall attend school punctually and regularly; conform to the regulations of the school; obey promptly all the directions of his teacher and others in authority; observe good order and propriety of deportment; be diligent in study; respectful to his teacher and others in authority; kind and courteous to schoolmates; and refrain entirely from the use of profane and vulgar language.

#### **5 CCR § 302. Pupils to be neat and clean on entering school.**

A pupil who goes to school without proper attention having been given to personal cleanliness or neatness of dress, may be sent home to be properly prepared for school, or shall be required to prepare himself for the schoolroom before entering.

#### **5 CCR § 303. Duty to remain at school.**

A pupil may not leave the school premises at recess, or at any other time before the regular hour for closing school, except in case of emergency, or with the approval of the principal of the school.

## **State-Sponsored, Publicly Available Websites or Other Resources on School Discipline**

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by California provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)
<i>Website</i>		
School Environment	Provides training, resources, and technical assistance in the establishment of a school/community environment that is physically and emotionally safe, well-disciplined, and conducive to learning.	<a href="http://www.cde.ca.gov/ls/ss/se/index.asp">http://www.cde.ca.gov/ls/ss/se/index.asp</a>
Bullying and Hate Motivated Behavior	Provides resources for parents, administrators, and students on how bullying can be prevented and addressed. Resources include publications, sample policies, and frequently asked questions.	<a href="http://www.cde.ca.gov/ls/ss/se/bullyingprev.asp">http://www.cde.ca.gov/ls/ss/se/bullyingprev.asp</a>
Classroom Management	Information and resources to successfully manage unwanted behavior in classrooms.	<a href="http://www.cde.ca.gov/ls/ss/se/classroommgmt.asp">http://www.cde.ca.gov/ls/ss/se/classroommgmt.asp</a>
Positive School Climate	Information regarding the importance of positive school climate and resources to improve school climate.	<a href="http://www.cde.ca.gov/ls/ss/se/schoolclimate.asp">http://www.cde.ca.gov/ls/ss/se/schoolclimate.asp</a>
Unsafe School Choice Option Provisions	Information regarding the Unsafe School Choice Option (USCO) provisions of the No Child Left Behind Act.	<a href="http://www.cde.ca.gov/ls/ss/se/usco.asp">http://www.cde.ca.gov/ls/ss/se/usco.asp</a>
Violence Prevention	Provides information about funds, training, resources, and technical assistance concerning preventing violence, helping students to make safe choices, and collecting data about violence in schools.	<a href="http://www.cde.ca.gov/ls/ss/vp">http://www.cde.ca.gov/ls/ss/vp</a>
Behavioral Intervention Strategies and Supports	Provides alternatives to suspension and expulsion to support students' full development and help make schools better places for all students to learn. These include restorative practices, school-wide positive behavior interventions and supports, and social-emotional learning. Resources include links to practitioners.	<a href="http://www.cde.ca.gov/ls/ss/se/behavioralintervention.asp">http://www.cde.ca.gov/ls/ss/se/behavioralintervention.asp</a>



Title	Description	Website address (if applicable)
<i>Website</i>		
School Attendance Review Boards	Information about school attendance review boards (SARBs) that are composed of school and community members who meet regularly to diagnose and resolve persistent student attendance or behavior problems.	<a href="http://www.cde.ca.gov/ls/ai/sb">http://www.cde.ca.gov/ls/ai/sb</a>
State Interagency Team - Workgroup to Eliminate Disparities and Disproportionality	Supports interagency collaboration in developing resources to eliminate disparities and disproportionality within and across systems and make progress toward fairness, equity, and quality of services for California's diverse racial, ethnic and cultural children, youth, and families.	<a href="https://sites.google.com/site/sitwged/home">https://sites.google.com/site/sitwged/home</a>
UCLA Civil Rights Project/Proyecto Derechos Civiles	Conducts and presents research in social science and law on the critical issues of civil rights and equal opportunity for racial and ethnic groups in the United States, including school attendance and school discipline practices	<a href="http://civilrightsproject.ucla.edu">http://civilrightsproject.ucla.edu</a>
Safe and Supportive Schools	Supports statewide measurement of conditions for learning (school climate) and targeted programmatic interventions to improve those conditions.	<a href="http://www.cde.ca.gov/ls/ss/se/safesupportive.asp">http://www.cde.ca.gov/ls/ss/se/safesupportive.asp</a>
Guidance on Disproportionality	Critical values and beliefs, background, goals, data, and improvement strategies related to disproportionality.	<a href="http://www.cde.ca.gov/sp/se/ga/disproguidance112011.asp">http://www.cde.ca.gov/sp/se/ga/disproguidance112011.asp</a>
<i>Documents</i>		
Sample Policy for Bullying Prevention	Sample policy on the prevention of bullying and on conflict resolution.	<a href="http://www.cde.ca.gov/ls/ss/se/samplepolicy.asp">http://www.cde.ca.gov/ls/ss/se/samplepolicy.asp</a>
<i>Other Resources</i>		
Data and Statistics	Data and statistics collected from California schools and learning support resources to identify trends and educational needs and to measure performance.	<a href="http://www.cde.ca.gov/ds">http://www.cde.ca.gov/ds</a>