

Berkeley Unified School District  
Board Policy 5144.3 - Expulsion  
Students

EXPULSION

The Governing Board is dedicated to implementing graduated discipline practices and policies that aim to keep all our students in class, receiving instruction and support. Expulsion from school is an extreme and severe disruption of the educational process, and shall be reserved for behavior that requires expulsion under the law or that poses a serious future threat to the safety of students or staff.

Definitions

"Accused student" means the student against whom expulsion proceedings are initiated or contemplated.

"Complainant" means the student who is the alleged

If a principal or the Superintendent determines that a student has committed any of the following acts at school or at a school activity off school grounds, the Education Code requires that he or she recommend the expulsion of the student unless he or she determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct:

- (1) Causing serious physical injury to another person, except in self-

alternative resolution, such as restorative justice or a settlement with terms agreed upon by the District and the accused student.

#### Suspended enforcement of expulsion orders

Under the law, the Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for a period of up to, but not more than, one calendar year.

[Ed Code section 48917(a); 80 Ops. Cal. Atty. Gen. 85 (1997).]

The Board shall suspend the enforcement of any expulsion order unless it is uniquely inappropriate to do so in the particular case.

Any suspended enforcement of an expulsion order shall be accompanied by a rehabilitation plan carefully tailored to the unique needs of the accused student, designed to further the student's academic progress, facilitate the student's understanding of the District's behavioral expectations and the harm caused by the student's behavior, repair the harm caused, ensure the safety of other students and staff, and prevent a reoccurrence of the behavior.

Where the Board has suspended the enforcement of an expulsion order, the Board has the discretion to revoke the suspended enforcement

Where the Board has issued an

specific analysis, in addition to the nature or seriousness of the alleged incident.

[Ed. Code 48911(g).]

In making this determination, the Superintendent or designee shall, when possible, consult with the complainant(s) (if any) and/or the complainant(s)' parent/guardian. The Superintendent or designee shall also explore whether an agreement by the accused student to stay away from the complainant(s) (if any) would alleviate the danger to persons or property or threat of disruption to the instructional process that the accused student's presence at his or her current school might pose. Such a stay-away agreement might result in the accused student having to temporarily change classes, temporarily withdraw from certain activities or sports, and/or temporarily withdraw from attending prom or other social activities. The terms of any such agreement shall be shared with the complainant(s) (if any) to the extent possible,

Instruction

but in no case later than the close of business

timeline of any discipline process, d) the resolution of any discipline process, and e) how to access any available resources, of which the Superintendent or designee is aware, for confidential support and guidance throughout the process.

[Family Educational Rights and Privacy Act (FERPA) Regulations, 34 CFR sec. 99.30, 99.31.]

In addition, the Title IX Coordinator shall serve as the District contact for

the Superintendent or designee shall consider the complainant's wishes when determining how to proceed.

If the panel finds that the accused student committed any of the acts specified in Education Code sec. 48915(c), but does not recommend expulsion, the accused student 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 Education Code section 48432.5, the District's continuation school.

[Ed Code sec. 48918(e).]

An administrative panel's decision not to recommend

consider comments made by an accused student or his/her representative during closed session in deciding not to expel an accused student, no student may be expelled on the basis of comments made by that student or his/her representative in closed session.

[Ed Code sec. 48918(f)(1).]

Where the Board finds substantial evidence but declines to expel the accused student, it may direct the Superintendent or designee to create a plan that includes opportunities for the accused student to repair any harm caused and take responsibility for his or her actions.

Students with Individual Education Plans (IEPs) and Section 504 plans

Nothing in this Policy shall be construed to limit in any way the rights of students with Individual Education Plans (IEPs) and Section 504 Plans that are provided in the Education Code and in

Handbook, with illustrative examples of student