

KNOW YOUR RIGHTS: EXPULSIONⁱ

WHAT CAN I BE EXPELLED FOR?

Your principal or superintendent must suspend you and recommend you for expulsion if (s)he suspects you committed a “zero tolerance” offense: 1) possessing, selling, or otherwise furnishing a firearm, 2) brandishing a knife at another person, 3) selling illegal drugs, 4) committing or attempting to commit a sexual assault or sexual battery, 5) possessing an explosive device (§48915(c)ⁱⁱ).

Unless your principal or superintendent finds that expulsion is inappropriate, (s)he must recommend you for expulsion for the following acts committed at school or during a school event: 1) causing serious physical injury to another person, except in self-defense, 2) possession of a knife or dangerous object of no reasonable use to the student, 3) unlawful possession of any controlled substance, except a first offense for less than an ounce of marijuana, 4) robbery or extortion, 5) assault or battery upon a school employee (§48915(a)).

For a full list of reasons that you may be suspended and/or expelled, please see §48900 et seq.

WHO CAN EXPEL ME?

Principals and superintendents may, and sometimes must, recommend to the governing board that you be expelled, but only the governing board can decide to expel you after holding an expulsion hearing.

CAN I GO TO SCHOOL BEFORE MY HEARING?

If you are suspended pending your expulsion hearing, your superintendent can extend your suspension beyond five days only if, following a meeting in which you and your parent/guardian are invited to attend, it is found that your presence at school or in an alternative school placement would “cause a danger to persons or property or a threat of disrupting the instructional process” (§48911(g)). You can challenge this decision if you do not agree.

WHAT RIGHTS DO I HAVE?

***If you have an Individualized Education Program (IEP), a 504 plan, or think that you might qualify for either, read our fact sheet for Students with Exceptional Needs. You have additional protections related to suspension and expulsion.**

The governing board can only expel you after holding a expulsion hearing. The hearing must be held within 30 school

days of your offense, unless you request a postponement in writing (§48918(a)).

You must be notified of the date and place of the hearing at least 10 days in advance. The notice must include the specific facts and charges upon which your proposed expulsion is based, a copy of the district’s relevant disciplinary rules, and your right to have yourself, your parent/guardian, legal counsel, or a non-attorney adviser inspect and obtain all documents to be used at the hearing, to confront and question all witnesses who will testify at the hearing, to question all other evidence presented, to present evidence on the pupil’s behalf, including witnesses (§48918(b)).

See the end of this fact sheet for resources that can help you in your preparation.

WHEN WILL I KNOW IF I AM EXPELLED?

Either the governing board or its designee can conduct your expulsion hearing (§§48918(c)(d)). A record of the hearing must be made (§48918(g)).

If the governing board conducts your expulsion hearing, it must decide within ten school days after the hearing whether to expel you (§48918(a)).

If the governing board designates a hearing officer or administrative panel to conduct the hearing, the designee must decide within three school days of your hearing whether or not to recommend your expulsion to the governing board (§48918(e)). If the designee does not recommend expulsion, you shall be allowed to return to school immediately (§48918(e)). If the designee recommends expulsion, the governing board must decide whether or not to accept the designee’s recommendation within 40 school days after you were removed from school unless you request a postponement in writing (§48918(a)).

The governing board must expel you if, based on your hearing, there is substantial evidence that you committed a “zero tolerance” offense (§48918(f)), §48915(c)(d)).

The governing board may expel you if, based on your hearing, there is substantial evidence that you committed an offense listed in §48915(a) or §§48900(a-m) and that at least **one** of the following is also true:

- Other means of correction are not feasible or have repeatedly failed.
- Due to the nature of your act, your presence causes a continuing danger to the physical safety of students or others.

(§§48918(f), 48915(b)&(e)).

If the governing board expels you, the superintendent must provide written notice to you or your parent/guardian that must include your right to appeal the decision, the alternative education placement that will be provided to you during your expulsion period, and your obligations when you enroll in a new school district (§48918(j)).

WHAT IS A "SUSPENDED EXPULSION"?

If you are expelled, the governing board may decide to suspend your expulsion and allow you to stay in school on probationary status for up to one calendar year (§48917). If you violate any district rule or regulation regarding student conduct or commit any offense in §48900, you may be expelled pursuant to the terms of your original expulsion (§48917(d)).

CAN I APPEAL MY EXPULSION?

If you want to appeal the governing board's decision to expel you, you must file your appeal to the county board of education within 30 calendar days of the date on which you were expelled by the governing board, even if you received a suspended expulsion (§48919). Make sure you request the hearing transcript and any supporting documents from your school district the day you file your appeal and file them with the county board as soon as you receive them (§48919). Your district must provide these documents within ten school days of your written request (§48919). The county board must hold a hearing within 20 school days of the date on which you filed your appeal. The amount of time the county board has to make a decision depends on the county. See §§48919, 48919.5 for more information.

See §§48921-48924 for more information regarding the standard of review that governs expulsion appeals.

The county board will notify you and the governing board in writing (§48925). Their decision is final and binding upon both you and your school district (§48925).

HOW LONG CAN I BE EXPELLED FOR?

At the time of your expulsion, the governing board shall set a date no later than the last day of the semester after the semester in which you are expelled to review your case for readmission or if you are expelled pursuant to §48915(c), a year from the date of expulsion (§48916(a)). The governing board has the discretion to review your case for readmission earlier than this date (§48916(a)).

The governing board must also establish procedures for students who want to apply for early readmission and make these available to you and your parent/guardian when you are expelled (§48916(c)).

WHAT HAPPENS IF I AM EXPELLED?

The governing board shall ensure that an educational program is provided to you and recommend a plan of rehabilitation for the expulsion period (§§489159(d)), 48916(b), 48916.1(a)).

WHERE CAN I GO TO SCHOOL?

If you are expelled for any offenses listed in §§48915(a)&(c), you may not enroll in school in another district during your expulsion period (§48915.2). You may only enroll in a county community school, juvenile court school, or community day school (§48915.2(a)).

If you are expelled for any other offense, you can enroll in school in another district during your expulsion period. You or your parent/guardian must inform the new district that you were expelled from your previous school and the governing board shall hold a hearing to determine whether you pose a continuing danger to other students or school employees (§§48915.1(a)&(b)). The governing board may decide to deny enrollment, permit enrollment, or permit conditional enrollment in a regular school program or other educational program (§48915.1(d)).

WHERE CAN I GET MORE INFORMATION?

California Education Code

www.leginfo.ca.gov/calaw.html

School Discipline:

· *ACLU of Northern California*

(415) 621-2488 (English); 415-293-6356 (español)

http://www.aclunc.org/s4a/kyr_discipline.shtml

Special Education:

· *Disability Rights California*

(800) 776-5746 (English y español)

www.disabilityrightsca.org/issues/specialeducation_pubs.html

ⁱ This fact sheet does not apply to charter schools in California. While some of the processes are the same, others may vary.

ⁱⁱ All references to code sections refer to the California Education Code unless otherwise noted.



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