



## **Learner Suspension and Expulsion Policy**

Board Approved: May 12, 2026

### **Introduction**

This Learner Suspension and Expulsion Policy (the “Policy”) for SCVi (“School”) has been established in order to promote learning and protect the safety and well-being of all learners. When the Policy is violated, it may be necessary to suspend or expel a learner from regular classroom instruction. At the same time, the School intends to provide effective interventions for learners who engage in acts of problematic behavior to help them change their behavior and avoid exclusion from the School.

Staff shall enforce disciplinary rules and procedures fairly and consistently among all learners and accord all learners with similar rights to due process. In addition to the suspension and expulsion policies required for this charter, the School will develop its learner discipline policies and procedures which shall be distributed to each learner/parent/guardian (including incoming learners who transfer midyear) as part of the Learner/Family Guidebook and posted on the website. The notice shall state that these disciplinary rules and procedures are available on request.

Discipline includes, but is not limited to, advising and counseling learners, conferring with parents/guardians, community service on or off campus, the use of alternative educational environments, suspension and expulsion. Corporal punishment shall not be used as a disciplinary measure against any learner. Corporal punishment includes the willful infliction of, or willfully causing the infliction of, physical pain on a learner. For purposes of the Policy, corporal punishment does not include an employee’s use of reasonable force necessary to protect the employee, learners, staff or other persons or to prevent damage to school property.

A learner has the right to be free from the use of seclusion and behavioral restraints of any form imposed as a means of coercion, discipline, convenience, or retaliation by staff. This right includes, but is not limited to, the right to be free from the use of a drug administered to the learner in order to control the learner’s behavior or to restrict the learner’s freedom of movement, if that drug is not a standard treatment for the learner’s medical or psychiatric condition. School staff may use seclusion or a behavior restraint only to control behavior that poses a clear and present danger of serious physical harm to the learner or others that cannot be immediately prevented by a response that is less restrictive. School staff shall avoid, whenever possible, the use of seclusion or behavioral restraint techniques.

School staff shall not do any of the following:

- Use seclusion or a behavioral restraint for the purpose of coercion, discipline, convenience, or retaliation.
- Use locked seclusion, unless it is in a facility otherwise licensed or permitted by state law to use a locked room.
- Use a physical restraint technique that obstructs a learner's respiratory airway or impairs the learner's breathing or respiratory capacity, including techniques in which a staff member places pressure on a learner's back or places the staff member's body weight against the learner's torso or back.
- Use a behavioral restraint technique that restricts breathing, including, but not limited to, using a pillow, blanket, carpet, mat, or other item to cover a learner's face.
- Use a prone restraint.
- Use a behavioral restraint for longer than is necessary to contain the behavior that poses a clear and present danger of serious physical harm to the learner or others.

A learner identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability pursuant to the Individuals with Disabilities in Education Act ("IDEA") or who is qualified for services under Section 504 of the Rehabilitation Act of 1973 ("Section 504") is subject to the same grounds for suspension and expulsion and is accorded the same due process procedures applicable to regular education learners except when federal and state law mandates additional or different procedures. The School will follow Section 504, the IDEA, the Americans with Disabilities Act of 1990 ("ADA") and all applicable federal and state laws when imposing any form of discipline on a learner identified as an individual with disabilities or for whom the School has a basis of knowledge of a suspected disability or who is otherwise qualified for such services or protections in according due process to such learners.

## **Suspension**

### ***Definition***

Suspension is the temporary removal of a learner from class instruction for adjustment or disciplinary reasons. Suspension does not mean any of the following:

- Reassignment to another education program or class at the School where the learner will receive continuing instruction for the length of day prescribed by the Board for learners of the same grade level;
- Referral to a certificated employee designated by the School Director or designee to advise learners;
- Removal from the class, but without reassignment to another class for the remainder of the class period without sending the learner to the School Director or designee.

While suspended, the learner may not loiter on or about any School grounds at any time, nor attend or participate in any School activity at any time, no matter where such activity is taking place. Violation may result in further disciplinary action.

The School shall consider suspension from School only when other means of correction fail to bring about proper conduct or where the learner's presence would constitute a danger to persons or property or seriously disrupt the educational process.

### ***Authority to Suspend***

The School Director or designee may suspend a student from class, classes or the school for a period not to exceed five days. The School Director or designee may extend a student's suspension pending final decision by the Board of Directors of the School on a recommendation for expulsion. Such extended suspension should not exceed 10 days, unless specific procedural safeguards are met. Those are identified below.

On a recommendation for expulsion, the Board of Directors may suspend a special education learner being considered for expulsion in accordance with the laws relating to expulsion of special education learners.

A learner may be suspended or expelled for acts that are enumerated in this Policy and related to school activity or attendance that occur at any time, including, but not limited to any of the following:

- While on school grounds
- While going to or coming from school
- During the lunch period, whether on or off the school campus
- During, or while going to or coming from a school sponsored activity
- All acts related to school activity or school attendance occurring within the School

### ***Grounds for Suspension***

The School Director or designee may use their discretion to provide alternatives to suspension or expulsion recommendations that are age appropriate and designed to address and correct the learner's specific misbehavior. Alternatively, learners may be suspended or recommended for expulsion for any of the following acts (whether completed, attempted or threatened) when it is determined the learner:

- Caused, attempted to cause, or threatened to cause physical injury to another person or willfully used force or violence upon the person of another, except in self-defense
- Possessed, sold or otherwise furnished any firearm, knife, explosive or other dangerous object unless, in the case of possession of any object of this type, the learner had obtained written permission to possess the item from an authorized certificated school employee, with the School Director or designee's written concurrence
- Unlawfully possessed, used, sold or otherwise furnished, or was under the influence of, any controlled substance as defined in Health and Safety Code sections 11053-11058 (including, but not limited to, opiates, hallucinogenic substances, stimulants, depressants and narcotic drugs), alcoholic beverage or intoxicant of any kind. Learners who voluntarily disclose their use of a controlled substance, alcohol, or an intoxicant of any kind in order to seek help through services or supports shall not be suspended solely for that disclosure.
- Unlawfully offered, arranged or negotiated to sell any controlled substance as defined in Health and Safety Code sections 11053-11058, alcoholic beverage or intoxicant of any kind, and then sold, delivered or otherwise furnished to any person another liquid substance or material and represented the same as a controlled substance, alcoholic beverage or intoxicant
- Committed or attempted to commit robbery or extortion
- Caused or attempted to cause damage to school property or private property
- Stole or attempted to steal school property or private property (as used in this policy, "school property" includes but is not limited to electronic files and databases)
- Possessed or used tobacco or any products containing tobacco or nicotine products, including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, betel and e-cigarettes, whether or not they contain tobacco. However, this section does not prohibit the use or possession by a learner of their own prescription products. Learners who

voluntarily disclose their use of a tobacco product in order to seek help through services or supports shall not be suspended solely for that disclosure.

- Committed an obscene act or engaged in habitual profanity or vulgarity
- Unlawfully possessed or offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code section 11014.5
- Knowingly received stolen school property or private property
- Possessed an imitation firearm, i.e., 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
- Committed a sexual assault as defined in Penal Code sections 261, 266c, 286, 288, 289, or former section 288a, or committed a sexual battery as defined in Penal Code section 243.4
- Harassed, threatened or intimidated a learner who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that learner from being a witness and/or retaliating against that learner for being a witness
- Unlawfully offered, arranged to sell, negotiated to sell or sold the prescription drug Soma
- Engaged in, or attempted to engage in, hazing. "Hazing" means a method of initiation or pre-initiation into a learner 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 learner. "Hazing" does not include athletic events or school-sanctioned events.
- Engaged in an act of bullying. "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 learner or group of learners directed toward one or more learners that has or can be reasonably predicated to have the effect of one or more the of the following:
  - Placing a reasonable learner(s) in fear of harm to that learner(s)' person or property;
  - Causing a reasonable learner to experience a substantially detrimental effect on the learner's physical or mental health;
  - Causing a reasonable learner to experience substantial interference with the learner's academic performance;
  - Causing a reasonable learner to experience substantial interference with the learner's ability to participate in or benefit from the services, activities, or privileges provided by a school.
- An electronic act, for purposes of the immediately preceding paragraph, means the transmission, 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:
  - A message, text, sound or image.
  - A post on a social network internet web site including, but not limited to:
    - 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 above.
    - Creating a credible impersonation of another actual learner for the purpose of having one or more of the effects listed above. "Credible impersonation" means to knowingly and without consent impersonate a learner for the purpose of bullying the learner and such that another learner would reasonably believe, or has reasonably believed, that the learner was or is the learner who was impersonated.
    - Creating a false profile for the purpose of having one or more of the effects listed above. "False profile" means a profile of a fictitious learner or a profile using the likeness or attributes of an actual learner other than the learner who created the false profile.

- An act of cyber sexual bullying.
  - For purposes of this section, “cyber sexual bullying” means the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording by a learner to another learner or to school personnel by means of an electronic act that has or can be reasonably predicted to have one or more of the effects described above. A photograph or other visual recording shall include the depiction of a nude, semi-nude or sexually explicit photograph or other visual recording of a minor where the minor is identifiable from the photograph, visual recording or other electronic act.
  - Cyber sexual bullying does not include a depiction, portrayal, or image that has any serious literary, artistic, educational, political or scientific value or that involves athletic events or school-sanctioned activities.
- 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.
- A “reasonable learner” means a learner, including, but not limited to, an exceptional needs learner, who exercises average care, skill and judgment in conduct for a person that age, or for a person of that age with the learner’s exceptional needs.
- Made terrorist threats against school officials and/or school property. For the purpose 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 \$1,000.00, 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 their own safety or for their immediate family’s safety, or for the protection of School property, or the personal property of the person threatened or their immediate family.
- For learners in grades 4 to 12, committed sexual harassment
- Caused or participated in an act of hate violence
- Carried, possessed, sold or otherwise furnished an electronic signaling device
- Committed vandalism/malicious mischief
- Violated academic ethics
- Falsified or misinterpreted notes or phone calls of parents or guardians
- Falsely activated fire alarm
- Habitually violated the dress code
- Intentionally harassed, threatened or intimidated a learner or group of learners to the extent of having the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder and invading learner rights by creating an intimidating or hostile educational environment
- Discriminated against, harassed, intimidated, and/or bullied any person or groups of persons based on the following actual or perceived characteristics: those set forth in Penal Code section 422.55, including immigration status, and Education Code section 220, disability, gender, nationality, race or ethnicity, religion, sexual orientation, gender identity, gender expression or association with one or more of these actual or perceived characteristics. This policy applies to all acts related to school activity or school attendance occurring within the school.
- A learner 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 policy, except that a learner 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 may be recommended for expulsion.

Learners shall not be suspended on the basis of having 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 (the “Act”), and those Acts shall not constitute grounds for a learner enrolled in kindergarten or any of grades 1 to 12 to be recommended for expulsion.

A certificated or classified employee may refer a learner to school administrators for appropriate and timely in-school interventions or supports from the list of other means of correction specified in Education Code section 48900.5(b) for any of the Acts.

A school administrator shall, within five (5) school days, document the actions taken in response to the referral identified above and place that documentation in the learner’s record to be available for access, to the extent permissible under state and federal law. The school administrator shall, by the end of the fifth business day, also inform the referring certificated or classified employee, verbally or in writing, what actions were taken and, if none, the rationale used for not providing any appropriate or timely in-school interventions or supports.

A suspension or expulsion shall not be imposed against a learner based solely on the fact that they are truant, tardy, or otherwise absent from school activities.

The above list is not exhaustive and depending upon the offense, a learner may be suspended or recommended for expulsion for misconduct not specified above.

### ***Procedures Required to Suspend***

The School Director or designee shall investigate the incident and determine whether or not it merits suspension.

*Searches:* In order to investigate an incident, a learner’s attire,<sup>1</sup> personal property, vehicle or school property, including books, desks, school lockers, computers and other electronic devices, may be searched by a School Director or designee who has reasonable suspicion that a learner has violated or is violating the law or the rules of the school. *Illegally possessed items shall be confiscated and turned over to the police.*

Unless a learner poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, a suspension will be preceded by an informal conference between the School Director or designee and the learner in which the learner shall be orally informed of the reason for the suspension, the evidence against that learner, the other means of correction that were attempted before the suspension and be given the opportunity to present informal proof of that learner’s side of the story. If the learner poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, the informal conference will be held within two (2) school days, unless the learner waives this right or is physically unable to attend for any reason, including, but not limited to, hospitalization or detention in a correctional facility.

At the time of the suspension, a School employee shall make a reasonable effort to contact the parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, by telephone, by email or in person to inform that person of the suspension and the reasons therefor and the employee may state the date and time when the learner may return to school.

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<sup>1</sup> This does not include removing clothing to permit visual inspection of the under clothing, breasts, buttocks or genitalia of the learner.

If a learner is suspended without the informal conference, both the learner and the parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, will be notified of a learner's right to return to school for the purpose of a conference.

The parent or guardian of a learner, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, shall respond without delay to a request from school officials to attend a conference regarding the learner's behavior.

Penalties shall not be imposed on a learner for failure of the learner's parent or guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, to attend a conference with school officials. Reinstatement of the suspended learner shall not be contingent upon attendance by the learner's parent or guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, at the conference.

The School Director or designee shall fill out a Notice of Suspension Form, a copy of which will be sent to the learner's parent/guardian and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, and to the learner. A copy of this form is also placed in the learner's cumulative file at the School. The Notice of Suspension Form shall state the fact of suspension, its duration and the specific offense committed by the learner. In addition, the notice may state the date and time when the learner may return to school. The notice shall also state that if desired by the parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, a prompt meeting or hearing will be held at which the suspension may be discussed and at which the learner may be present and afforded an opportunity to present informal proof of their side of the case. Additionally, if the School officials wish to ask the parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, to confer regarding matters pertinent to the suspension, the notice may request the parent/guardian to respond to such requests without delay.

The School Director or designee determines whether the offense warrants a police report. School Director or designee will report certain offenses to law enforcement authorities in accordance with Education Code section 48902.

When School Director or designee releases a minor learner to a peace officer for the purpose of removing the minor from the school premises, the School Director or designee 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, unless the minor has been taken into custody as a victim of suspected child abuse.

### ***Suspension Time Limits***

The School Director or designee determines the appropriate length of the suspension (up to five (5) school days). When suspensions do not include a recommendation for expulsion, they shall not exceed five (5) consecutive school days per suspension.

Per EdCode 48903(a) (except as provided in subdivision (g) of Section 45911 and in Section 48912, the total number of days in which a learner may be suspended from school shall not exceed twenty (20) days in any school year unless, for the 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 school days for which the learner may be suspended shall not exceed thirty (30) days in any school year.

The School Director or designee may require the learner and their parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, to sign a contract that states the conditions that the learner is expected to meet while at the School. Copies of the signed contract are kept by the school and given to the parent/guardians.

### ***Assignment Completion During Suspension***

Upon the request of a parent/guardian/educational rights holder/learner, and for foster children, their attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, a teacher shall provide to a learner in any of grades 1 to 12 who has been suspended from the School for two (2) or more school days, the homework that the learner would otherwise have been assigned. If a homework assignment that is requested and turned into the teacher by the learner either upon the learner's return to school from suspension or within the timeframe originally prescribed by the teacher, whichever is later, is not graded before the end of the academic term, that assignment shall not be included in the calculation of the learner's overall grade in the class.

### ***Special Education and Section 504 Learner Suspensions***

When suspensions involve special education learners or learners with a 504 plan, a manifestation determination meeting shall be held no later than the 10<sup>th</sup> suspension day (whether consecutive or cumulative for the school year). The School Director or designee shall notify the learner's special education teacher or regular education teacher when the learner's cumulative days of suspension for that school year reaches eight. That teacher shall promptly notify the School Director or designee of the need for the manifestation determination meeting. The manifestation determination meeting shall include the LEA, the parent, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, and relevant members of the learner's IEP Team or 504 Plan Team (as determined by the parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, and the LEA).

The learner shall be treated as a general education learner for disciplinary purposes, except to the extent that educational services must continue, if at the manifestation determination meeting the following are both determined in the negative, after reviewing all relevant information in the learner's file, including the learner's IEP or 504 Plan, any teacher observations and any relevant information provided by the parents: 1) the conduct in question was caused by, or had a direct and substantial relationship to, the learner's disability under the IDEA or section 504; or 2) the conduct in question was the direct result of the LEA's failure to implement the IEP or 504 Plan. If it is determined at the manifestation determination meeting that 1) or 2) is answered in the affirmative, the conduct is deemed a manifestation of the disability.

If the conduct is deemed a manifestation of the disability, the IEP Team or 504 Plan Team must conduct a functional behavioral assessment (or other appropriate assessment for the 504 learner), create a plan and implement it, or if the plan is preexisting, review it and modify it as necessary to address the behavior.

In the case of a manifestation of a disability, the learner will be returned to the placement from which they were removed, unless the LEA and parent agree to a change of placement as part of the modification of the behavioral intervention plan or updated 504 Plan. For special education and 504 learners, a new manifestation determination meeting is required for all proposed suspensions exceeding ten cumulative school days in one school year.

The special education learner may be removed from school to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the behavior is determined to be a manifestation of the learner's disability if the learner: 1) carries a weapon to or possesses a weapon at school, on school premises or to or at a school function under the jurisdiction of the School; 2) knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, while at school, on school premises, or at a school function under the jurisdiction of the School; or 3) has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the School.

### **III. Expulsion**

#### ***Definition***

Expulsion means involuntary disenrollment from the School.

#### ***Authority to Expel***

A learner may be expelled only after a hearing conducted by a single, neutral Hearing Officer and upon the recommendation of the School Director or designee. The Hearing Officer shall be appointed by the presiding officer of the Board on an as-needed basis and shall be a certificated individual who is neither the learner's teacher nor a member of the Board. The Hearing Officer may recommend expulsion of a learner only upon a finding that the learner committed an expellable offense as listed below.

#### ***Grounds for Expulsion***

##### **Category I Expulsions – Mandatory Recommendation for Expulsion**

The School Director or designee shall immediately suspend a learner, and recommend for expulsion, a learner who has committed one or more of the following acts:

- Possessing, selling or otherwise furnishing a firearm when a school employee verifies firearm possession, unless the learner obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the School Director or designee
- Brandishing a knife at another person
- Unlawfully selling a controlled substance
- Committing or attempting to commit a sexual assault or committing a sexual battery
- Possession of an explosive

##### **Category II Expulsions – Recommendation for Expulsion Required, Unless Inappropriate Under the Circumstances**

A learner who has committed one of the following acts of misconduct must be recommended for expulsion, unless the School Director or designee determines that expulsion should not be recommended under the circumstances or that an alternative means of correction would address the conduct.

- Causing physical injury to another person, except in self-defense
- Possession of any knife, explosive or other dangerous object of no reasonable use to the learner
- Unlawful possession of any controlled substance, except for the first offense for the possession of not more than one ounce of marijuana, other than concentrated cannabis or for possession of over-the-counter medication for use by the learner for medical purposes or medication prescribed for the learner by a physician
- Robbery or extortion
- Assault or battery on a school employee

### **Category III Expulsions – Discretionary Expulsion Recommendation**

In the discretion of the School Director or designee, any act that warrants suspension may warrant expulsion. Additionally, a learner may be expelled for misconduct that is not listed above if the acts disrupt and/or present ongoing health and/or safety concerns, or the learner has repeatedly engaged in the misconduct.

In no event, however, will a learner be expelled for disrupting school activities or otherwise willfully defying the valid authority of supervisors, teachers, administrators, other school officials or other school personnel engaged in the performance of their duties.

#### ***School Recommendation for Expulsion***

Upon recommendation of expulsion by the School Director or designee, the School shall make the recommendation of expulsion to the single, neutral Hearing Officer.

The School Director or designee investigates the incident and determines whether the offense results in an expulsion. Upon a recommendation of expulsion by the School Director or designee, the learner and the learner's parent/guardian or representative will be invited to a conference to determine if the suspension for the learner should be extended pending an expulsion hearing. In such instances when the School has determined the suspension period shall be extended, such extension shall be made only after a conference is held with the learner and the learner's parent/guardian, unless the learner and the learner's parent/guardian fail to attend the conference. This determination will be made by the School Director or designees upon either of the following determinations: (1) the learner's presence will be disruptive to the education process, or (2) the learner poses a threat or danger to others. Upon either determination, the learner's suspension will be extended pending the results of an expulsion hearing.

#### ***Special Education and Section 504 Learner Expulsions***

Within ten (10) school days of a recommendation for expulsion to change the placement of a learner with a disability because of a violation of a code of learner conduct, an IEP Team or Section 504 Team meeting shall be called. During that meeting, the School, the parent/guardian, and relevant members of the IEP team or Section 504 Team shall review all relevant information in the learner's file, including the learner's IEP or 504 Plan, any teacher observation and any relevant information provided by the parents/guardians to determine:

- If the conduct in question was caused by, or had a direct and substantial relationship to, the child's disability; or
- If the conduct in question was the direct result of the local educational agency's failure to implement the IEP or 504 plan.

If the School, the parent/guardian, and relevant members of the IEP Team or Section 504 Team determine that either of the above is applicable for the learner, the conduct shall be determined to be a manifestation of the learner's disability.

### ***Notification of Expulsion Hearing***

Learners recommended for expulsion are entitled to a hearing to determine whether the learner should be expelled. The expulsion hearing shall be held no later than thirty (30) school days of the date that expulsion is recommended, unless a brief extension is requested by the learner or their parent/guardian for good cause. The hearing shall be held in a closed setting unless a public hearing is requested by the learner's parent/guardian in writing at least three (3) calendar days before the hearing date.

The single, neutral Hearing Officer will send a written notice to the learner and parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker, regarding the expulsion hearing at least ten (10) days before the date of the hearing. The notice shall include:

- The date and place of the expulsion hearing;
- A statement of the facts, charges and offenses upon which the proposed expulsion is based;
- A copy of the School's disciplinary rules relating to the alleged violation;
- Notification of the learner's or parent/guardian's obligation to provide information about the learner's status at the School to any other school district or school to which the learner seeks enrollment;
- The opportunity for the learner or the learner's parent/guardian to appear in person and/or to employ and be represented by counsel or an advocate;
- The right to inspect and obtain copies of all documents to be used at the hearing;
- The opportunity to present testimony, evidence and witnesses and confront and question witnesses who testify at the hearing;
- The opportunity to question all evidence presented and to present oral and documentary evidence on the learner's behalf, including witness testimony.

The School shall maintain documents that may be used at the hearing and make them available for review by the learner and/or parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker. These papers may include, but are not limited to, the following: A record of the learner's attendance and grades, a record of previous infractions, a statement of the facts surrounding the case; a statement of the facts surrounding the case made by a witness, a law enforcement agency's report and any other relevant matter.

*If, due to a written request by the expelled learner, the hearing is held at a public meeting, and the charge is committing or attempting to commit a sexual assault or committing a sexual battery as defined in Education Code section 48900, a complaining witness shall have the right to have their testimony heard in a session closed to the public.*

### ***Expulsion Hearing Procedure***

An expulsion hearing shall be held before a single, neutral Hearing Officer. A record of the hearing shall be made and may be maintained by any means, including electronic recording, as long as a reasonably accurate and a complete written transcription of the proceedings can be made.

While the technical rules of evidence do not apply to expulsion hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. A recommendation by a single, neutral Hearing Officer to expel must be supported by substantial evidence that the learner committed an expellable offense.

Findings of fact shall be based solely on evidence produced at the hearing. While hearsay evidence is admissible, no decision to expel shall be based solely on hearsay evidence, although sworn declarations may be admitted as testimony from witnesses who are determined by the a single, neutral Hearing Officer that disclosure of their identity or live testimony at the hearing may subject them to an unreasonable risk of physical or psychological harm.

### ***Expulsion Decision by single, Neutral Hearing Officer***

The decision to expel a learner will be based on the finding of one or both of the following:

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

The final decision by a single, Neutral Hearing Officer shall be made within ten (10) calendar days following the conclusion of the hearing, or within thirty (30) school days after the date of the learner's removal from the School for the incident for which the recommendation for expulsion is made. If the single, neutral Hearing Officer decides not to recommend expulsion, the learner shall be reinstated and permitted to return to classroom programs. The decision not to recommend expulsion shall be final.

If the decision is to expel a learner, the single, Neutral Hearing Officer, shall send written notice of the decision to expel, including the findings of fact, to the learner or parent/guardian, and for foster children, their educational rights holder, attorney, and county social worker, and for Indian children, their tribal social worker and, if applicable, their county social worker. The notice shall include the following:

- Notice of the specific offense committed by the learner;
- Notice of the right to appeal the expulsion to the school's Board of Directors within five (5) calendar days. Decisions of the Board of Directors shall be final.
- Notice of the learner's or parent/guardian's obligation to inform any new district in which the learner seeks to enroll of the learner's status within the School

Expelled learners are responsible for seeking alternative education programs, including but not limited to, programs within the County or their school district of residence. The School will work cooperatively with parents/guardians upon request to assist with locating alternative education programs.

### ***Rehabilitation Plans***

The Hearing Officer may, to the extent permitted by law, suspend the enforcement of an expulsion order for a period not to exceed one calendar year. As a condition of such suspension, the Hearing Officer may,

but is not required to, assign the learner to a school, class, program, or other intervention deemed appropriate to support the learner's rehabilitation.

Any such assignment or conditions shall be determined on a case-by-case basis and may include expectations related to behavior, attendance, or other appropriate factors. Where a rehabilitation program is implemented, it may include opportunities for parent or guardian involvement in the learner's education; however, such involvement shall not be required, and a parent or guardian's decision not to participate shall not be considered in determining whether the learner has satisfactorily met any conditions of rehabilitation.

Nothing in this policy shall be interpreted to require the School to provide or fund a specific rehabilitation program or placement unless otherwise required by applicable law.

### ***Expulsion Right to Appeal Process***

Within five (5) calendar days of an expulsion decision, the family may submit a written appeal to the single, neutral Hearing Officer and request the expulsion be reviewed by the Board of Directors. The School must then schedule a special board meeting within a reasonable time to hear the appeal. During the appeal process, the learner will remain enrolled in the school's independent study program. The Board of Directors decision regarding the appeal and if final and cannot be further appealed.

If the Board of Directors decides not to recommend expulsion, the learner shall be reinstated and permitted to return to classroom programs. Furthermore, if the Board of Directors upholds the expulsion decision, the learner will be disenrolled the same day as the Board of Directors final decision.

The school shall maintain records of all learner suspensions and expulsions at the school site. Such records shall be made available for review upon request.

### ***Readmission Process***

The decision to readmit a learner or to admit a previously expelled learner from another school district or School shall be in the sole discretion of the Board of Directors or its designee following a meeting with the single, neutral Hearing Officer. The single, neutral Hearing Officer shall make a recommendation to the Board of Directors following the meeting regarding their determination. The learner's readmission is also contingent upon the school's capacity and any other admission requirements in effect at the time the learner seeks admission or readmission.