

VENTURA COUNTY BOARD OF EDUCATION

ADMINISTRATIVE REGULATION NO. 5144.1

ADOPTED: 02/24/97

CLASSIFICATION: Students

REVISED: 09/21/23

SUBJECT: Suspension/Due Process

DEFINITIONS

Suspension means removal of a student 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 student will receive continuing instruction for the length of day prescribed by the County Board for students of the same grade level.
2. Referral to a certificated employee designated by the principal to advise students.
3. Removal from the class, but without reassignment to another class or program, for the remainder of the class period without sending the student to the principal or designee as provided in Education Code 48910, so long as removal from a particular class does not occur more than once every five school days.

NOTICE OF REGULATIONS

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, including suspension.

GROUND FOR SUSPENSION: GRADES K-12

Acts for which a student, including a student with disabilities, may be suspended shall be only those specified as follows and in the section “Additional Grounds for Suspension: Grades 4-12” below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person; willfully used force or violence upon another person, except in self-defense; or committed

as an aider or abettor, as adjudged by a juvenile court, a crime of physical violence in which the victim suffered great or serious bodily injury

2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object, unless, in the case of possession of any objects of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.
3. Unlawfully possessed, used, sold, or otherwise furnished, or was under the influence of any controlled substance, as defined in Health and Safety Code 11053-11059, alcoholic beverage, or intoxicant of any kind.
4. Unlawfully offered, arranged, or negotiated to sell any controlled substance, as defined in Health and Safety Code 11053-11059, 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.
5. Committed or attempted to commit robbery or extortion.
6. Caused or attempted to cause damage to school property or private property.
7. Stole or attempted to steal school property or private property.
8. Possessed or used tobacco or products containing tobacco or nicotine products, including, but not limited to, cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel, except that this restriction does not prohibit a student from using or possessing prescription products.
9. Committed an obscene act or engaged in habitual profanity or vulgarity.
10. Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Health and Safety Code 11014.5.
11. Knowingly received stolen school property or private property.
12. Possessed an imitation firearm. 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.

13. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, 289, or former 288a, or committed a sexual battery as defined in Penal Code 243.4.
14. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding for the purpose of preventing that student from being a witness and/or retaliating against that student for being a witness.
15. Unlawfully offered, arranged to sell, negotiated to sell, or sold the prescription drug Soma.
16. Engaged in, or attempted to engage in, hazing

Hazing means a method of initiation or pre-initiation into a student 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 student. Hazing does not include athletic events or school-sanctioned events.

17. 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, directed toward one or more students that has or can reasonably be predicted to have the effect of placing a reasonable student(s) in fear of harm to self or property; cause the student to experience a substantially detrimental effect on physical or mental health; or cause the student to experience substantial interferences with academic performance or ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying includes any act of sexual harassment, hate violence, or harassment, threat, or intimidation, as defined in Education Code 48900.2, 48900.3, or 48900.4 and below in the section “Additional Grounds for Suspension: Grades 4-12,” that has any of the effects described above on a reasonable student.

Bullying also includes an act of cyber sexual bullying by a student through the dissemination of, or the solicitation or incitement to disseminate, a photograph or other visual recording that depicts a nude, semi-nude, or sexually explicit photograph or other visual recording of an identifiable minor, when such dissemination is to another student or to school personnel by means of an electronic act and has or can be reasonably predicted to have one or more of the effects of bullying described above. 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.

Electronic act means the creation or transmission originated on or off the school site 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:

- a. A message, text, sound, video, or image
- b. A post on a social network internet website, including, but not limited to, posting to or creating a burn page or creating a credible impersonation or false profile for the purpose of causing a reasonable student any of the effects of bullying described above.

Reasonable student means a student, including, but not limited to, a student who has been identified as a student with a disability, who exercises average care, skill, and judgment in conduct for a person of the student's age, or for a person of the student's age and disability.

Burn page means an internet web site created for the purpose of causing a reasonable student any of the effects of bullying described above.

Credible impersonation means to knowingly and without consent impersonate a student for the purpose of bullying the student and such that the student would reasonably believe, or has reasonably believed, that the student was or is the student who was impersonated.

False profile means a profile of a fictitious student or profile using the likeness or attributes of an actual student other than the student who created the false profile.

An electronic act is not considered pervasive conduct solely on the basis that it has been transmitted to the internet or is currently posted on the internet.

18. Aided or abetted the infliction or attempted infliction of physical injury on another person, as defined in Penal Code 31.
19. Made terrorist threats against school officials and/or school property.

A terrorist threat includes any written or oral statement by a person who willfully threatens to commit a crime which will result in death or great bodily injury to another person or property damage in excess of \$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 out the crime.

ADDITIONAL GROUNDS FOR SUSPENSION: GRADES 4-12

A student in grades 4-12 shall be subject to suspension when it is determined that the student:

1. Committed sexual harassment as defined by Education Code Section 212.5.

Sexual harassment means conduct which, when considered from the perspective of a reasonable person of the same gender as the victim, is sufficiently severe or pervasive as to have a negative impact upon the victim's academic performance or to create an intimidating, hostile, or offensive educational environment.

2. Caused, attempted to cause, threatened to cause, or participated in an act of, hate violence, as defined in Education Code 233.

Hate violence means any act punishable under Penal Code 422.6, 422.7, or 422.75. Such acts include injuring or intimidating a victim, interfering with the exercise of a victim's civil rights, or damaging a victim's property because of the victim's race, ethnicity, religion, nationality, disability, gender, gender identity, gender expression, or sexual orientation; a perception of the presence of any of those characteristics in the victim; or the victim's association with a person or group with one or more of those actual or perceived characteristics.

3. Intentionally engaged in harassment, threats, or intimidation against district personnel or students 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 school personnel or students by creating an intimidating or hostile educational environment.

SUSPENSION FROM CLASS BY A TEACHER

A teacher may suspend a student from class for the remainder of the day and the following day for any of the acts specified in Education Code 48900 and listed as Items #1-19 under "Grounds for Suspension: Grades K-12" above or for disruption or willful defiance at any grade level.

When suspending a student from class, the teacher shall immediately report this action to the principal or designee and send the student to the principal or designee for appropriate action. If that action requires the continuing presence of the student at school, the student shall be appropriately supervised during the class periods from which the student has been suspended.

As soon as possible after the teacher decides to suspend the student, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist may attend the conference if it is practicable, and a school administrator shall attend if either the parent/guardian or teacher so requests.

A student suspended from class shall not be returned to class during the period of suspension without the approval of the teacher of the class and the principal or designee.

A student suspended from class shall not be placed in another regular class during the period of suspension. However, a student assigned to more than one class per day may continue to attend other regular classes except those held at the same time as the class from which the student was suspended.

A teacher may also refer a student, for any of the acts specified above in Education Code 48900, to the principal or designee for consideration of a suspension from school.

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

SUSPENSION BY COUNTY SUPERINTENDENT, PRINCIPAL OR PRINCIPAL'S DESIGNEE

To implement disciplinary procedures at a school site, the principal may, in writing, designate as the principal's designee another administrator or, if the principal is the only administrator at the school site, a certificated employee. As necessary, the principal may, in writing, also designate another administrator or certificated employee as the secondary designee to assist with disciplinary procedures when the principal and the principal's primary designee are absent from the school site.

The County Superintendent, principal, or designee shall immediately suspend any student found at school or at a school activity away from school to have committed any of the following acts:

1. Possessing a firearm which is not an imitation firearm, as verified by a certificated employee, unless the student had obtained prior written permission to possess the item from a certificated school employee, with the principal or designee's concurrence

2. Selling or otherwise furnishing a firearm
3. Brandishing a knife at another person
4. Unlawfully selling a controlled substance listed in Health and Safety Code 11053-11058
5. Committing or attempting to commit a sexual assault as defined in Penal Code 261, 266c, 286, 287, 288, or 289, or former 288a, or committing a sexual battery as defined in Penal Code 243.4
6. Possessing an explosive as defined in 18 USC 921

For all other offenses, a student may be suspended only when the County Superintendent or principal has determined that other means of correction have failed to bring about proper conduct.

When other means of correction are implemented prior to imposing suspension upon a student, including supervised suspension, the County Superintendent, principal, or designee shall document the other means of correction used and retain the documentation in the student's record.

LENGTH OF SUSPENSION

The County Superintendent, principal, or designee may suspend a student from school for not more than five consecutive school days.

A student may be suspended from school for not more than 20 school days in any school year. However, if a student enrolls in or is transferred to another regular school, an opportunity school or class, or continuation school or class for the purpose of adjustment, the student may be suspended for not more than 30 school days in a school year. VCOE may count suspensions that occur while a student is enrolled in another county office of education or a school district toward the maximum number of days for which the student may be suspended in any school year.

DUE PROCESS PROCEDURES FOR SUSPENSION

Suspensions shall be imposed in accordance with the following procedures:

1. Informal Conference: Suspension shall be preceded by an informal conference conducted by the County Superintendent, principal, or designee with the student and, and whenever practical, the teacher, supervisor, or school employee who referred student to the principal or designee. At the conference, the student shall be informed of the reason for the disciplinary action, including the other means of correction that were attempted before the

suspension as required pursuant to Education Code 48900.5, and the evidence against the student, and shall be given the opportunity to present the student's version and evidence in the student's defense.

This conference may be omitted if the County Superintendent, principal, or designee determines that an emergency situation exists involving a clear and present danger to the lives, safety, or health of students or school personnel. If a student is suspended without this conference, the student, the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, shall be notified of the student's right to a conference and the right to return to school for the purpose of a the conference. The conference shall be held within two school days, unless the student waives the right to it or is physically unable to attend for any reason. In such a case, the conference shall be held as soon as the student is physically able to return to school for the conference.

2. Administrative Actions: All requests for student suspension are to be processed by the principal or designee. A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the County Superintendent or designee.
3. Notice to Parents/Guardians: At the time of suspension, a school employee shall make a reasonable effort to contact the parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or if the student is an Indian child, the Indian child's tribal social worker, and, if applicable, the county social worker, in person, by email, or by telephone. Whenever a student is suspended, the parent/guardian, or, if applicable, the foster youth's educational rights holder, attorney, and county social worker, or the Indian child's tribal social worker and, if applicable, the county social worker, shall be notified in writing of the suspension.

This notice shall state the specific offense committed by the student.

In addition, the notice may state the date and time when the student may return to school.

4. Parent/Guardian Conference: Whenever a student is suspended, school officials may conduct a meeting with the parent/guardian to discuss the cause(s) and duration of the suspension, the school policy involved, and any other pertinent matter.

If school officials request to meet with the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, the notice may state that the law requires such

individuals to respond to the request without delay. However, the student shall not be penalized for the failure of the parent/guardian, a foster youth's educational rights holder, attorney, and county social worker, or an Indian child's tribal social worker, and, if applicable, the county social worker, to attend such a conference. The student may not be denied reinstatement solely because such individuals failed to attend the conference.

ON-CAMPUS SUSPENSION

A student who poses no imminent danger or threat to the school, students, or staff may be assigned to on-campus suspension in a separate classroom, building, or site for the entire period of suspension. The following conditions shall apply:

1. The on-campus suspension classroom shall be staffed in accordance with law.
2. The student shall have access to appropriate counseling services.
3. The on-campus suspension classroom shall promote completion of schoolwork and tests missed by the student during the suspension.
4. The student shall be responsible for contacting the student's teacher(s) to receive assignments to be completed in the supervised suspension classroom. The teacher(s) shall provide all assignments and tests that the student will miss while suspended. If no such work is assigned, the person supervising the suspension classroom shall assign schoolwork.

At the time a student is assigned to an on-campus suspension classroom, the principal or designee shall notify the student's parent/guardian, or if the student is a foster youth, the foster youth's educational rights holder, attorney, and county social worker, or, if the student is an Indian child, the Indian child's tribal social worker and, if applicable, county social worker, in person, by email, or by telephone. When the assignment is for longer than one class period, this notification shall be made in writing.

NOTIFICATION TO LAW ENFORCEMENT AUTHORITIES

Prior to the suspension of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245.

The principal or designee shall notify appropriate city or county law enforcement authorities of any student acts which may involve the possession or sale of narcotics or of a controlled substance, or of any student acts involving the possession, sale, or furnishing of firearms, explosives, or other

dangerous weapons in violation of Education Code 48915(c)(1) or (5) or Penal Code 626.9 and 626.10.

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering, or sale of controlled substances, alcohol, or intoxicants of any kind.

MAINTENANCE OF RECORDS

VCOE shall maintain a record of each suspension, including its specific cause(s).

Legal References:

EDUCATION CODE

212.5	Sexual harassment
233	Hate violence
1981-1983	Enrollment of students in community school
32260-32262	Interagency School Safety Demonstration Act of 1985
35145	Open board meetings
35146	Closed sessions (re suspensions)
35291	Rules (for government and discipline of schools)
35291.5	Rules and procedures on school discipline
48645.5	Former juvenile court school students; enrollment
48853-48853.5	Foster youth
48900-48927	Suspension and expulsion
48950	Speech and other communication
48980	Parent/Guardian notifications
49073-49079	Privacy of student records
52060-52077	Local control and accountability plan
64000-64001	Consolidated application

CIVIL CODE

47	Privileged communication
48.8	Defamation liability

CODE OF CIVIL PROCEDURE

1985-1997	Production of evidence; means of production
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GOVERNMENT CODE

11455.20 Informal hearing procedures
54950-54963 Ralph M. Brown Act

HEALTH AND SAFETY CODE

11014.5 Drug paraphernalia
11053-11059 Controlled substances; standards and schedules

LABOR CODE

230.7 Employee time off to appear in school on behalf of a child

PENAL CODE

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422.7 Aggravating factors for punishment
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626.10 Dirks, daggers, knives, razors, or stun guns
626.2 Entry upon campus after written notice of suspension or dismissal
without permission
626.9 Gun-Free School Zone Act of 1995
868.5 Supporting person; attendance during testimony of witness

WELFARE AND INSTITUTIONS CODE

224.1 Indian child; definition
729.6 Counseling