



Defending Students in Expulsion Proceedings

A Toolkit for Non-Lawyer Advocates in California

INTRODUCTION

This toolkit was created in July 2024 by the Education Defense & Justice for Youth Clinics at East Bay Community Law Center. Special thanks to Diego Cardenas from the Alameda County Public Defender's Office and Joy Hernandez for their contributions to the creation of this toolkit.

This toolkit is intended for use by non-lawyer advocates in California to support youth in K-12 public schools who may be subject to a recommendation for expulsion. Sections of this guide may refer specifically to resources available in Alameda County. **Nothing in this guide is intended to be interpreted as legal advice.**

Caution: Non-lawyer advocates **cannot** give legal advice. It is illegal to practice law or give legal advice as a non-lawyer. Non-lawyer advocates CAN share information with students and their families and uplift options by saying things like “this option may lead to x, whereas this one may lead to y.” However, advocates should never recommend an option or say anything like “you should do this option because it is the best option.”

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PART 1: FINDING AN EXPULSION DEFENSE ATTORNEY

July 2024

Identifying an Expulsion

Signs a Student is Facing Expulsion from School

If one or more of these points apply to the student, seek out legal representation. A list of education attorneys can be found on page 3.

1. Suspension longer than 5 consecutive school.
 - If student was first suspended for 5 school days and when they returned to school on the 6th day, the school principal said they needed to go home/calls guardian(s) to pick student up because the “suspension is being extended.”
 - Example: Student was suspended for 3 school days starting Monday, and returns to school on Thursday, but the principal tells them to go home.
2. Student received a paper with “Extension of Suspension” meeting on it.
 - The school needs to give student and guardian an “extension of suspension notice” and hold an “extension of suspension meeting.”
 - The “extension of suspension” meeting may not be a formal meeting, meaning that the principal may just meet with guardian and tell them they are extending the suspension until the expulsion hearing.
 - The meeting/notice often happens on the 4th or 5th school day of suspension.
3. Student was suspended for any of the following “zero tolerance” offenses, the school may say that they MUST immediately suspend and are REQUIRED to recommend expulsion:
 - Possessing, selling, or furnishing a firearm
 - Brandishing a knife
 - Selling a controlled substance
 - Committing or attempting to commit sexual assault or committing sexual battery
 - Possession of an explosive

Note, there are other incidents that the school can recommend expulsion for that are not the mandatory offenses listed above. For a full list, please refer to [California Education Code 48900](#) and [48915](#).

4. Received notice of an IEP or 504 meeting while a student is on suspension called an MDR or “Manifestation Determination Review.”
 - An MDR is a meeting with IEP or 504 team and administrators to figure out if the act(s) the student is accused of doing and which the school based the suspension and expulsion recommendation on was a result of their disability or the failure of the school to implement their IEP or 504 plan.
5. The school asked the parent/guardian to sign an agreement (“stipulated expulsion”) that the student will go to a different school.
6. The student was not permitted to go back to school or was placed on independent study.
7. The student or guardian(s) received notice about an expulsion hearing for the student.
 - The district may not call it a hearing, but it is a hearing. For example, they may call it a meeting or audience.
 - OUSD refers to their expulsion hearing as a DHP – “Disciplinary Hearing Panel.”

If you are still unsure if the student is being expelled, call or visit the school with the student’s parent or guardian and request to speak with the Principal or Vice Principal.

Education Attorney Referrals: Bay Area

Organization	County	Contact
East Bay Community Law Center (EBCLC)	Alameda	(510) 982-7695 EDJYintake@ebclc.org
Bay Area Legal Aid (BALA)	Alameda Contra Costa San Francisco Santa Clara	(510)250-5277 https://baylegal.org/what-we-do/our-clients/youth-justice/
Legal Services for Children (LSC)	San Francisco	(415) 780-6366 https://lsc-sf.org/how-we-can-help/education/
Legal Advocates for Children & Youth (LACY)	Santa Clara	(408) 280-2416
Youth and Education Law Project (YELP)	San Mateo	(650) 723-4336 www.baylegal.org/what-we-do/our-clients/youth-justice/
Legal Services of Northern California (LSNC)	Solano	(707) 643-0054
Private Attorney	County	Contact
Alameda County Bar Association	Alameda	(510) 893-7160 www.acbanet.org
CCC Bar Association LRS	Contra Costa	925-825-5700 www.cccba.org
The Bar Association of San Francisco	San Francisco Marin	(415) 989-1616 https://www.sfbar.org/lris/online-referral/
San Mateo County Bar Association - Lawyer Referral Service	San Mateo	(650) 369-4149 https://www.smcba.org/?pg=clientreferrals
Santa Clara County Bar Association	Santa Clara	669-302-7803 https://www.sccba.com/lawyer-referral-service/

PART 2: NAVIGATING EXPULSION DEFENSE WITHOUT AN ATTORNEY

Caution: Non-lawyer advocates **cannot** give legal advice. It is illegal to practice law or give legal advice as a non-lawyer. Non-lawyer advocates CAN share information with students and their families and uplift options by saying things like “this option may lead to x, whereas this one may lead to y.” However, advocates should never recommend an option or say anything like “you should do this option because it is the best option.”

The following tools are intended to assist non-lawyer advocates in supporting students and families during expulsions IF an attorney is unavailable. Please see the [education attorney referral list](#) on page 3 to find an attorney.

Talking to People at School About a Disciplinary Incident

Should the student, family, or advocate tell people at school what happened?

Ultimately, what a student, family, or advocate shares with people at a school or district is their choice. However, it is good to keep in mind that administrators (principal, district coordinator) can and do pass information along to higher-ups and even to police. There may be good reasons to discuss what happened (for instance, if the school offers restorative justice instead of exclusionary discipline like an expulsion), but there may be good reasons not to share.

“

If a student does not want to share, they can say: “I want to talk to my parent / mentor / family / advocate before I say anything.” “I need some time before I talk about this.” “I don’t want to give a statement right now.”

If a family member does not want to talk, they can ask questions or just listen: “I need to hear more about what is going on.” “I’m not sure how to answer that.” “I’ll need to think about it to give a good answer.”

If an advocate is present, they can try to deflect questions or ask to resume the conversation/meeting at a different time. If the advocate is comfortable they may encourage students and families to let them know when something happens, so they can attend meetings or be present at the school to support.

”

CAUTION: If a young person is on probation or has a court case/is court involved and facing suspension or expulsion, they should talk to their court attorney BEFORE making any statements since they could be used against them in court.

Students under 18 should not be questioned by the police (including at school) in a situation where they are not free to leave without being given the chance to speak with an attorney. If a student is being questioned by the police, they can and should ask if they are free to go. If the police tell them they are not free to go they should ask to speak to a lawyer and say they are going to remain silent. More information is available in the flyer linked here:

<https://youthlaw.org/sites/default/files/attachments/2022-03/SB%202023%20Miranda%20Rights%20for%20Schools.pdf>.

Getting Information About an Expulsion Hearing

**I don't know if or when an expulsion hearing is happening.
Who can I ask?**

Oakland Unified School District (OUSD)

Name, Position	Contact
Misha Karigaca (Director, Student Support & Safety)	Call (510) 879-2483 or email Misha.Karigaca@ousd.org
Rene Garcia (Program Manager, DHP)	Call (510) 879-2504 or email Rene.Garcia@ousd.org
Brenda Mendieta (Administrative Assistant III, Community Schools & Student Services)	Call (510) 879-2411

Note: The parent/guardian may need to be the one to reach out due to privacy protections, though advocates can support. Parents can also call the school's principal or vice principal, but the District staff will be responsible for scheduling and holding the hearing. **Don't make any assumptions about what has or has not happened! Always ask!**

Getting Information About an Expulsion Hearing

**I don't know if or when an expulsion hearing is happening.
Who can I ask?**

All Alameda County School Districts

Parents/guardians may get contact information in a letter, or someone from the school or district may call them. When in doubt, parents/guardians can reach out to any familiar person at the school and ask to be pointed in the right direction. If not, the contact information is usually on the school district's website under student services.

School District	Link
Alameda Unified	https://www.alamedaunified.org/departments/student-support-services
Albany Unified	https://www.ausdk12.org/apps/pages/index.jsp?uREC_ID=218780&type=d&pREC_ID=480590
Berkeley Unified	https://www.berkeleyschools.net/departments/student-services/
Emery Unified	https://emeryusd.k12.ca.us/student-services.html
Castro Valley Unified	https://www.cv.k12.ca.us/apps/pages/index.jsp?uREC_ID=1373081&type=d&pREC_ID=1557298
Dublin Unified	https://www.dublinusd.org/apps/pages/index.jsp?uREC_ID=1567980&type=u
Fremont Unified	https://fremontunified.org/about/instructional-services/student-support-services/
Hayward Unified	https://www.husd.us/departments/sfs/student-placement-alternative-education/student-discipline
Livermore Valley Joint Unified	https://www.livermoreschools.org/Page/6017
New Haven Unified	https://mynhusd.org/departments/teaching-learning/student-and-family-services/
Newark Unified	https://www.newarkunified.org/departments/pupil-services
Piedmont Unified	https://www.piedmont.k12.ca.us/
Pleasanton Unified	https://www.pleasantonusd.net/departments/student-support-services/student-services
San Leandro Unified	https://www.slusd.us/slusd/district-divisions-departments/administrative-services-division-2/family-student-support-services/
San Lorenzo Unified	https://www.slzusd.org/apps/pages/disciplineandsafety
Sunol Glen Unified	https://www.sunol.k12.ca.us/visit



What is a Stipulated Expulsion?

A stipulated expulsion is an agreement offered to students as an alternative to an expulsion hearing. These agreements:

- Are typically offered, if at all, at the “Extension of Suspension” meeting (or any point leading up to a hearing). See [extension of suspension meeting tools](#), pages 11-13.
- Can look a lot like a legal contract.
- Typically include:
 - terms and conditions of the student’s expulsion,
 - what the district requires for the student to return once the expulsion term ends (also known as [the rehabilitation plan](#), see page 26 for more information), and
 - waive a student’s right to an expulsion hearing.
- Are not always offered. The student, family, or advocate can if the district might consider agreeing to one.

Are stipulated expulsion agreements a good thing?

It’s hard to say and can really depend on the specifics of the situation!

 Pros	 Cons
<p>They can sometimes be negotiated! Examples:</p> <ul style="list-style-type: none"> • Students can ask to return to their school on the condition that if they do an expellable action listed in Education Code 48900 again, the district can move forward with expulsion without a hearing (this is known as a suspended expulsion). • Students can ask not to admit the violation and for the expulsion to be expunged (removed from their records) upon re-admission. • Students can ask to change the terms of the rehabilitation plan to make it easier to complete. 	<p>By signing, the student’s education rights holder (the person who can make educational decisions for a student – usually their parent or guardian) waives the right to a hearing and an appeal, and the student will be expelled or placed on a suspended expulsion. In most cases, this means:</p> <ul style="list-style-type: none"> • An expulsion will be on the student’s academic record, which can come up in the future (like during college applications or occupational licensing). • The student will be required to fulfill the district’s requirements to return to back to school (this is known as the rehabilitation plan).



Red flags to watch out for:

1. Sometimes school/district staff may misrepresent what a stipulated expulsion is or try to pressure families into signing. Examples include school/district administrators saying:
 - Signing will get a student back into school quickly. ***BUT it may not be the student's original school and there may be serious conditions the student must comply with.***
 - The agreement is the school or district's way of helping the student out. ***BUT these agreements often favor the school district NOT the student.***
 - The evidence is clear, and there's no point in the student going to an expulsion hearing because they will lose. ***BUT there may be a chance of winning at hearing and the district may be lying about what kind of evidence they have.***
 - Families cannot take the agreement home and can only accept the offer if they sign immediately. ***BUT this may be negotiable if the family advocates to take some time to look over the agreement.***
 - The agreement cannot be negotiated. ***BUT districts often want to avoid going to hearings and may be willing to change the agreement to avoid doing so if asked.***
2. [Rehabilitation plan terms](#) (see page 26) can be unrealistic for students and can result in a student remaining out of their school for longer than the expulsion term. Examples include: requiring near perfect attendance/grades and lots of community service/therapy hours.

Ways to advocate for students regarding stipulated expulsions:

1. Advocate for families to have time to carefully read any agreements before signing.
2. Assist families with reaching out to an [attorney](#) for advice. See page 3.
3. If no attorney is available, you can try advocating (or empower the family to advocate) for rehabilitation terms that are easier to complete or comply with for the student. Examples:
 - Instead of requiring a percentage ("90%") attendance or a certain grade point average ("C average"), ask to change the requirements to "improved attendance and grades."
 - Request expungement of the expulsion at the end of the expulsion term so that it does not remain on the student's record.
 - Request lower numbers of required community service hours or counseling participation (or ask for credit for participation in your program!).
4. Ensure families receive a copy of the agreement in their preferred language.
5. Remind families they do not have to sign the agreement! Regardless of what an administrator says or does to pressure a family, a parent/guardian does not have to accept or sign an agreement. Families have the right to an expulsion hearing if they want one.

Extension of Suspension Meeting

What is an “Extension of Suspension”?

If your student has been suspended, it is important to keep an eye out for an “[Extension of Suspension Meeting](#).” See pages 30-31. This meeting happens when a district decides they are moving forward with expulsion and are extending a suspension through the expulsion process.¹

Extension of suspension meeting basics:

1. **When:** Usually happens on the 4th or 5th day of a 5-day suspension.
2. **Where:** Is typically held at a district or school office with the Director of Student Services (or with a similar school or district administrator overseeing school discipline).
3. **Who:** Is typically short and simply involves the district’s representative informing that the student will be kept out of school until the hearing, which will be scheduled later.
4. **What:** Typically ends with a written extension of suspension notice being provided to the student’s education rights holder (often the student’s parent or guardian).

This meeting, however, should be more collaborative!



Rights students, families, and advocates should be aware of:

1. The meeting should be an opportunity for the student and family to share their side of the story if they choose.
2. **CAUTION!** If the student is pending a juvenile court charge (they have a court case, a pending charge, or are on probation) for the school discipline incident, they should check-in with their court attorney **before** the meeting or making any statements.
3. A suspension should only be extended if the school district determines that the student’s in-person attendance would cause “danger to persons or property or a threat of disrupting the instructional process.”
4. If the student is on probation, the student’s court attorney should be notified and invited to the meeting by the district.²

¹ [California Code of Education 48911\(g\).](#)

² [California Code of Education 48911\(g\).](#)

Extension of Suspension Meetings: Opportunities for Advocacy

If a student is invited to an extension of suspension meeting, here are some ways that you can help:

- 1. Find Out Why:** If the district representative says that the suspension is being extended, listen for the reasoning behind their decision.
 - If there is not one provided, you can ask the district representative things like:
 - Why is the suspension being extended?
 - What danger does the student pose by being on campus until the hearing?
- 2. Suggest Alternatives to Suspension:** If suspension is being recommended, request alternatives to suspension. You can ask for things like:
 - referrals to campus supports
 - restorative justice circles
 - referrals to school-based counseling
 - safety planning
- 3. Confirm Education Access:** If the student is suspended, ask how the student will get access to assignments and instruction while they are out of school.
 - Districts like OUSD put the responsibility on the student to contact the school and ask about receiving assignments. You can avoid any confusion by asking about the plan or expectations early.
- 4. Support Families in Reviewing Documents Before Signing:** Provide families information about what signing documents during a meeting may mean!
 - Many school districts may offer families a “Stipulated Expulsion” or a “Stipulated Agreement” during this meeting. If families sign this, they would be waiving their right to an expulsion hearing and appeal.
 - To ensure that families do not waive their rights, it is best to support families by telling them they could ask to review the document with an attorney or simply review it later so that they can fully process and understand what is in it.
 - Find more information in the [Stipulated Expulsion tool](#) on pages 9-10.

5. **Ensure the Rights of Students with Disabilities are Upheld:** If the student has a 504 or IEP, ask when a Manifestation Determination Review (MDR) will be held. The school district is required to hold this meeting before the expulsion hearing and by asking for it upfront, you can ensure that it happens.
 - For more information about MDRs, look at "[Outside Resources for Students with Disabilities Facing Expulsion Tool](#)" on page 28.
6. **Push for understanding!** If you or the student's parent/guardian(s) are confused at any point, you can pause the meeting to check-in away from district or school staff or ask questions for clarification.
7. **Caution! Avoid Impact on a Student's Court Case:** If the student is on probation or pending a juvenile court charge (has a court case) for the school discipline incident, ensure the student checks in with their court attorney **before** meeting with the district.
 - Anything the student says can be used against them in their court case.
 - Students should talk to their court attorney about what they should or shouldn't say in the meeting. By consulting with an attorney first, students can avoid disclosing anything that might hurt their case.

REMINDER: As a non-lawyer advocate, you **cannot** give legal advice. It is illegal to practice law or give legal advice as a non-lawyer. You can share information with students and families and uplift options by saying things like "this option may lead to x, whereas this one may lead to y." However, you should avoid giving advice on options by saying anything like "you should do this option because it is the best option."

Expulsion Hearing Tools

Expulsion Hearing Basics: Info Sheet

What is an expulsion hearing?

If a student is recommended for expulsion, they have a right to a hearing unless their parent/guardian signs away that right and agrees for them to be expelled or transferred to a different school. *For more on [stipulated expulsion](#) see pages 9-10.*

The hearing is a meeting to look at the evidence about what happened and about the student before the school district decides if expulsion is appropriate.

Who attends the hearing?

The people who attend usually include:

1. The “judges” – a panel of three current/former administrators OR the district’s school board.
2. A representative for the school (often the student’s school principal or a lawyer) to present the case against the student.
3. The student, their guardian(s), and any other family, friends, providers, witnesses, or advocates they choose to bring with them.
4. Witnesses for the school (usually present only when they are asked to speak).

What happens at the hearing?

Hearings look different in different school districts, but often follow this order of events:

1. A presentation by a representative for the school (usually the principal, another administrator, or a lawyer) of their evidence and witnesses.
2. An opportunity for the student to speak, share evidence, and have witnesses, family, friends, providers, and advocates speak in their defense.
3. Time for each side to make a final statement to the panel/school board.

Students, families, and advocates can share any relevant evidence and witnesses. Anyone who speaks at the hearing can be asked questions after they speak by the other side and by the panel/school board to clarify or correct what they say.

What can advocates do at expulsion hearings?

Expulsion hearings are a space where non-attorney advocates are allowed to speak. The questions asked and information shared by anyone at the hearing should seem relevant and important to the decision about whether the student should be allowed to go back to school. Non-attorney advocates can and should feel empowered to speak up if they feel someone is doing, asking, or saying something inappropriate. Doing so may not change what is happening, but it may help hold those present accountable, make the student feel supported, and allow the student and their family to be heard.

Advocates may also facilitate the presentation of the student's witnesses (including statements from the student and the advocate themselves) and evidence and may give a closing statement on behalf of the student.

What are the potential outcomes of the hearing?

If a panel are the "judges" rather than the district's school board, they will recommend one of the following and the school board will vote on the recommendation at their next school board meeting.

1. No Expulsion: the student is immediately allowed to return to their original school.
2. Expulsion: the student is referred to Quest (the county school) with a rehabilitation plan (things they must do before being readmitted to the school district).³
3. Suspended Expulsion: the student can remain in the district (sometimes at a different school or program) with a rehabilitation plan which they must comply with to not be fully expelled and to be re-admitted from the suspended expulsion.

³ The district must allow the student to seek re-admission no later than at the end of the semester after the semester in which the expulsion occurred based on their completion of the rehabilitation plan. This also applies to suspended expulsions. The school board has discretion to decide whether the student has completed enough of the rehabilitation plan to be readmitted and usually base their decision on the recommendation of the administrator that meets with the student and their family about re-admission.

Thinking like the District:

Tips for Advocacy at Expulsion Hearings

At an expulsion hearing, what might convince the district they should allow the student to return to school? A good strategy may be to address the various concerns that a recommendation for expulsion may be based on. Common concerns for school districts include: (1) safety—will the student pose a safety risk at school?; (2) accountability—if the student did something wrong, do they understand and will they participate in alternatives to expulsion to be held accountable?; and (3) context—was there something going on that justifies or explains what happened was not the student’s fault?

Context: Why should the district support this student? Who is this student outside of the incident in the expulsion packet?

Statements or letters from the student or supportive adults can provide context about the student as a whole person rather than the isolated incident described in the expulsion packet.

- See the [student statement tool](#) on pages 23-24.
- See [the support letter/statement tool](#) on page 25.
- See the [expulsion hearing preparation worksheet](#) on page 19: tip 4(a).

Context: Does the student have a different explanation of what happened? Why should the district trust them over the school’s explanation?

The school’s story (in the expulsion packet) can be very different from what the student experienced or what the family believes happened. The hearing is an opportunity to share the student’s side of the story.

- See the [student statement tool](#) on pages 23-24.
- See the [expulsion hearing preparation worksheet](#) on pages 19-20: tips 3, 4(a), 5, and 6.

Safety and Accountability: What will change if the student is not expelled?

The hearing is an opportunity to explain what could prevent similar future incidents if the student returns to school. This can include the student’s motivations to change behavior and/or what resources will help (examples: provider services; school interventions; safety plans).

- See the [student statement tool](#) on pages 23-24.
- See the [support letter/statement tool](#) on page 25.
- See the [expulsion hearing preparation worksheet](#) on page 20: tip 7.

Expulsion Hearing Preparation Worksheet

This worksheet is intended to be used a checklist of steps and questions to answer as you prepare for an expulsion hearing. It is split into two sections: key questions and steps to focus on if pressed for time and some additional things that may be done if there is time, capacity, and understanding of how to do so. You may or may not use all or any of the steps on this worksheet in each case or ever—what is most important is to help a student feel like their story is heard and that they have someone supporting them in the expulsion process.

Preparation questions and steps to prioritize:

1. When and where is the expulsion hearing?
 - a. Has the family requested a delay/change of date of the hearing (**families have a right to one delay of up to 30 days after a written request**)?
2. What is the school's story?
 - a. **Do you have the expulsion packet?**
 - i. The student has a right to obtain and inspect copies of all documents that the school will use at the hearing.⁴ The packet will often include the principal's recommendation of expulsion, notices sent to the family, written statements from witnesses, the student's disciplinary history, and records of any interventions the school has done with the student like counseling or restorative justice.
 - ii. If the school doesn't provide the packet automatically, the parent or guardian can request it and the school must provide it within 5 business days of its creation.⁵ Some districts may not make (and therefore may not provide) the packet until very shortly before the hearing.
 - iii. See "[Sample Email Requesting Expulsion Packet](#)" on page 22.
 - b. What does the expulsion notice and principal's recommendation for expulsion say that the student did that resulted in an expulsion recommendation?
 - i. What evidence is in the expulsion packet that supports the school's story?

⁴ [California Education Code 48918\(b\)\(5\).](#)

⁵ [California Education Code 49069.7.](#)

3. What is the student's story? How is it different from the school's?

- a. See [*"Thinking Like the District"*](#) on page 17 to think about what to share.
- b. See [*"Student Statement Guide"*](#) on pages 23-24 to decide if/what the student should say at the hearing.

4. Make a list of people who can:

- a. Share a different perspective on what happened than the school and/or support the student's side of the story. Examples include: witnesses to the incident, the student, family members or providers who tried to intervene before or after the incident.
- b. Share positive things about the student. Examples include: family members and friends, service providers, mentors, teachers, supervisors for volunteering or work, church or community leaders.

5. Of those people, who can:

- a. Attend the hearing and share a statement? They should be aware that the people at the hearing can ask them questions after they speak. They should be prepared to answer honestly to whatever they are asked.

- i. What is the order in which they will speak?

- b. Write a letter to be shared at the hearing?

- i. Who will read each letter at the hearing? Often this is the advocate.

- c. See [*"Letters/Statements of Support Guide"*](#) on page 25 and [*"Thinking Like the District Tool"*](#) on page 17 for help with what they should share.

Extra Preparation Steps If There's Time:

Organize Evidence to Support Student Story

6. Are there photos or videos which support the student's side of the story?

- a. If **no**, move on to next point.
- b. If **yes**, then you could:
 - i. Have someone who was present when the photo or video was taken be at the hearing who can describe what they show during their statement (if you can't have the author of the photo, advocate can briefly explain what the photos or videos are at hearing).
 - ii. Confirm with the person coordinating the hearing that there will be a way to show the photo or videos at the hearing.
 - iii. Bring 2 flash-drives with any videos/photos and/or bring 5 printouts of each photo to share with the people at the hearing.

7. Are there texts, emails and/or letters which support the student's side of the story or show anything the student/family believes the school did wrong?

- a. If **no**, move on to next point.
- b. If **yes**, then you could:
 - i. If possible, have those who sent or received the written evidence be at the hearing, so they can read it or explain what it is about (if not, advocate can read or explain what it is about).
 - ii. Bring 5 copies of each piece of written evidence to share with the people at the hearing

Use Expulsion Packet to Support Student Story

8. Does the expulsion packet describe additional disciplinary history of the student (suspensions, expulsions)?

- a. If **no**, move on to next point.
- b. If **yes**, then either you, the student, or someone else can (in statements or letters):
 - i. Provide context that justifies or explains those incidents.
 - ii. Discuss interventions or supports that helped the student after those incidents (examples: restorative justice, counseling, outside providers).
 - iii. Discuss changes the student made after those incidents.

9. Does the expulsion packet contain counseling records for the student?

- a. If **no**, move on to next point.
- b. If **yes**, then either you, the student, or someone else can (in statements or letters):
 - i. Discuss if the counseling records are inaccurate from what the student and their family remember.
 - ii. Explain if the counseling/other intervention (example: restorative justice meeting) at school was helpful or unhelpful? Why?
 - 1. If it was helpful—could it be used again to address this situation?
 - 2. If it was unhelpful—are there better alternatives that the school could use this time?

10. Does the expulsion packet include attendance and grade records for the student that reflect low attendance or grades? ⁶

- a. If **no**, move on to next point.
- b. If **yes**, then either you, the student, or someone else can (in statements or letters):
 - i. Discuss whether there are things making it difficult for the student to attend school or achieve passing grades.
 - 1. Examples: a disability, safety concerns at or around school.
 - ii. Discuss whether there are services at school or from outside providers that would help the student improve their attendance and grades. Explain what would be helpful and how the student could get that help.
 - iii. If the student wants to do better at school and attend school more, discuss what is motivating them to do so.

⁶ Note that if the student's grades and attendance are high, these could be highlighted in supportive letters or statements as well.

Requesting Expulsion Packet: Sample Email

This email should be sent by the student's parent or guardian (the person who holds their education rights) to request the expulsion packet from the school. They can send an email to the person reaching out from the school district about the expulsion hearing—often called the “Student Services Coordinator.”

If the parent/guardian is unable to send the request themselves, an advocate may attempt to send this request for them, but it would be best to explain the advocate's role in helping the parent/guardian make the request and cc the parent/guardian if possible.

Some districts may not have the expulsion packet prepared until shortly before the expulsion hearing (even the day before). You can continue to follow up with the district by email or phone calls to ask for the packet as soon as it is created. Once it is created, the parent/guardian has a right to receive it within 5 business days by law as part of their student's education records.⁷

Dear [school or district administrator]:

I hope this email finds you well. My name is [Name] and I am [Student's name's]
[parent/guardian]. I am requesting that you send me an electronic copy of the expulsion
packet for the upcoming expulsion hearing on [Date] involving [my child/student].
Please send it to me at this email address as soon as possible. Please also send copies to
[advocate's email, student's email, other parent/guardian's email].

I look forward to hearing from you soon and I appreciate your help.

Thank you,
[Name]

⁷ [California Education Code 49069.7.](#)

Student Statement: Guidance Tool

This tool is intended to help a student write a statement to read at the hearing. You can use it to help a student think through what they want to say, but the statement should be in their own words. Remind them that the panel/school board and the person representing the school (which might be an administrator from their school or a lawyer) may ask them questions if they decide to speak at the hearing.

CAUTION: If the student has a criminal/delinquency court case (including pending charges or placement on probation), they should talk to their court attorney before planning to speak at the hearing. Anything they say can be used against them in court.

It is usually good to start with something along the lines of:

Hello,

My name is _____. I am [AGE] and I am in ____ grade at [SCHOOL]. Today I want to [examples: tell you about who I am, tell you my side of the story, tell you what I want to do differently, ask you to let me go back to school.]

Start by sharing about yourself. You can choose one or two of these prompts if you need ideas:

- My favorite class in school is...
- My favorite part about going to school is...
- Outside of school I like to [examples: sports, extracurriculars, job, volunteering, church, taking care of siblings]
- My goals for myself are [examples: future job goals, graduating, college, taking care of my family, making my family proud]
- I'm most proud of ...
- I want to tell you that I am ... [what do you want people at the hearing to know about you?]

You can explain what really happened. Some things to keep in mind if you are deciding whether or not to talk about what happened:

- *The school must prove that you did what they said you did—if you do not think they have proof, you may not want to admit to having done anything.*
- *Your statement should only include things that are true. People at the hearing may ask you questions after you talk and if they can prove something you said is not accurate, that may result in a worse outcome.*
- *You can also talk about things that led up or contributed to the incident—for example:*
 - *Any attempts you, your family, or others made to resolve a conflict that led to the incident for which you are being expelled before it happened.*

- *Anything you think the school could have or should have done differently to help you prevent the situation or help you during the situation*
- *Any other people that you think contributed to what happened (including other students, staff, or teachers at the school).*
- *Anything you were going through at the time that you think impacted how you acted during the situation.*

If you wish you had done/think you should have done anything differently during the incident, panels/school boards may find it convincing when a student apologizes, expresses understanding that they did something wrong, and/or explains what they would do differently in the future. Here are some prompts you could write about if you feel like this applies to you:

- I understand that I should not have ...
- I think I should have/I wish that I had done ...
- I am sorry for...
- If this situation ever happened again, I think I could/I would ...

It can be helpful to explain how you think expulsion would impact you, your family, your community and ask for what you would like the panel or board to do instead. Some prompts you could write about for this are:

- If I were expelled, I think _____ would happen.
- Not being allowed at school on suspension has caused.../made me feel...
- I would like to ask you to ... [examples: let me go back to school, let me go to a different school/program in the district, not expel me]

It can also be helpful to explain what you would be willing to do if you went back to school to prevent this from happening again (if you were involved in the incident). This could include things you would do differently, services you would access to support you, things you might ask the school to help you with like safety plans or restorative justice, or anything else you think would help. Some prompts to help you write about this are:

- If I am allowed to go back to [SCHOOL] I would...
- If I feel upset or need support at school I could [example: talk to a certain teacher or counselor to ask for help]
- I am willing to do [examples: counseling, restorative justice, safety planning]
- People I think will help me with this are [examples: family members, providers, mentors, trusted teachers or counselors at school]
- I want to do this because ... [examples: I want to go back to school, be able to graduate, participate in a sport/extracurricular I do at my school]

Finally, this is your statement and your opportunity to share anything you want to at the hearing—is there anything else you want to say?

Letter/Statement of Support:

Guidance Tool

This tool lists topics that letters/statements supporting a student may cover. Good people to ask for letters or statements include family members, service providers, mentors, supervisors, church/community leaders, therapists/counselors, teachers, and other important adults in the student's life. Different people will have different things to share, so not all the topics apply to everyone, but may be helpful to share to explain what a statement or letter could include.

REMINDER: Anyone who speaks at a hearing can be asked questions by the school representative and panel/school board. Letters should be read aloud at the hearing and copies provided to the panel/board and school representative.

1. Describe your relationship with the student: how long have you known them and in what context? If you provide a service to them or supervise them, what type of things do they work on with you and how often do you see them?
2. If you are a service provider: describe your credentials/relevant experience, including employment/education history related to your expertise your work with the student.
3. Describe the student: what are their positive traits? What are good things you have witnessed them do (examples include: volunteering, doing chores at home, caring for/helping/being kind to others, dedication to extracurriculars, school, a job)? If possible, give specific examples/tell stories about what they are like in your experience.
4. Discuss any context relevant to the incident at school: did you try to help the student deal with the situation? Do you think that there were things, other than the student's actions, that contributed to what happened (examples: bullying/peer conflict, school staff/teachers doing something wrong, the student's disabilities or trauma)?
5. Ask for a specific outcome: what do you wish the school had done instead of referring the student for expulsion (examples: intervene in bullying, restorative justice, provide special education, counseling, or safety planning)?⁸ What do you hope will happen next for the student (examples: going back to school, not being expelled)? What impact do you think being expelled would have on the student, their family, their community?
6. Explain if you think the student could successfully go back to school: do you think they are motivated to stay out of trouble (by what)? Do they have resources/trusted adults they will turn to to help them stay out of trouble/succeed?

⁸ Schools may sometimes discuss the student's past disciplinary history, attendance, and grades at a hearing, so possible help from the school can also include help with past incidents, barriers to attending school, and academic challenges the student has faced or is facing.

Post Expulsion Support Tips

Once a student is expelled, put on a suspended expulsion, or agrees to a stipulated expulsion, there are still things that advocates can do to help them navigate the next steps. This tool is intended to provide some tips and information to share with a young person who has been expelled.

1. **Rehabilitation Plans:** *generally students subject to any type of expulsion are given a rehabilitation plan (“rehab plan”) in their notice of expulsion. Rehab plans are a list of tasks and terms which a student is expected to complete or comply with before they can be “readmitted” to their school district (or to avoid a full expulsion from a suspended expulsion). The terms of rehab plans can sometimes be negotiated to be easier for the student through a stipulated expulsion ([see Stipulated Expulsion tool](#) on pages 9-10) or while settling an expulsion appeal. Advocates can be helpful in navigating rehab plans:*
 - a. Community Service: help the student find a location to do community service hours and assist them with transportation or other barriers to participation.
 - b. Counseling/Therapy: see if the school where they are placed has counselors that the student could complete counseling hours with and help them set a schedule with the school counselor. If the student has an outside therapist, social worker, or mentor provider, confirm with the district whether hours with them can count towards meeting the rehab plan requirement.
 - c. Grades and Attendance: help the student address barriers (examples: transportation, disability services) to their attendance and achieving passing grades or a required grade average. Talk to teachers and academic counselors at their school placement to see if they can provide additional support or ideas of services the student can access for help.
 - d. Stay away orders, following rules, and other terms: help the student understand all the terms in the rehab plan, which may include things like not going to any school campuses in their home district and not violating any more school rules. Discuss with them any challenges with or feelings they have about complying with these terms.

2. **Suspended Expulsion Violations:** *students on suspended expulsion ([see Expulsions Basics tool: Outcomes](#) on page 16) who violate rehab plans can be fully expelled without a further hearing. Generally, students who are fully expelled are sent to the county school and given the same rehab plan terms as they had on the suspended expulsion. Advocates can help students on suspended expulsion by:*
 - a. Ensuring the student understands the consequences of violating the rehab plan.
 - b. Helping the student discuss violations with the administrator in charge (often the Student Services Coordinator or principal of their current school). Explain context and ask for leniency to allow the student to remain on suspended expulsion.
3. **Readmission Meetings:** *at the end of the expulsion term, the student can request a readmission meeting with a school administrator (who is usually named in the rehab plan). At the readmission meeting, the student can present evidence that they have completed the rehab plan and ask for readmission to the district, which usually means returning to their original school. An advocate can help the student prepare for the meeting and can support them at the meeting:*
 - a. Gather documentation of counseling and community service hours and share them with the administrator.
 - b. Help the student provide context for any unfinished rehab plan terms. It can be helpful to explain any barriers that the student faced that were not within their control (examples: transportation, safety, disability).
4. **Expungement:** *the removal of the record of an expulsion from a student's academic records. Sometimes relevant for applications to programs like college.*
 - a. If a student is placed on a suspended expulsion, when the school board readmits the student it "may also order the expungement of any or all records of the expulsion proceedings."⁹ This is optional, but an advocate can ask or advocate for expungement at the readmission meeting.
 - b. Districts may have their own rules for expungement in other circumstances.¹⁰

⁹ [California Education Code 48917\(e\)](#).

¹⁰ For example, OUSD's Administrative Regulation 5144.3 about expunging expulsion records requires the student to make a request: <https://boepublic.ousd.org/Policies.aspx>.

Outside Resources for Students with Disabilities Facing Expulsion

Students with disabilities who are recommended for expulsion have some additional rights compared to students without disabilities. These rights and the processes that go with them are especially complex. For this reason, seeking to locate an attorney for these students should be a first step.

1. [See Toolkit Attorney Referral List](#) on page 3

However, if no attorney is available, below are some excellent resources which explain some of the rights and processes which impact students with disabilities after an expulsion recommendation. Consider looking at these resources for any student with an IEP or 504 Plan, who is currently being evaluated for an IEP or 504 Plan, OR [who you believe has a disability that may be impacting them at school](#).

2. Disability Rights California's [SERR Manual](#): Basic Rights

- a. [Under what circumstances could my child with a disability be suspended or expelled from school?](#)

3. Manifestation Determination Review Meeting:

- a. One right students with disabilities who are recommended for expulsion have is an additional meeting BEFORE the expulsion hearing, called a [manifestation determination review](#) ("MDR"). See also: [MDR Definition](#).
- b. These meetings are another potential [opportunity for advocacy](#) for the student to prevent an expulsion.
- c. If you believe [the MDR team made the wrong decision](#), it can be disputed by filing a [due process complaint](#). This is another point at which attorney resources should be sought. [See attorney referral list](#) on page 3.

4. Education before and during expulsion:

- a. While out of school awaiting the expulsion hearing and after being expelled, [students with disabilities should continue to receive certain special education services](#).

5. Other Questions?

- a. SERR Manual: [Information on Discipline of Students with Disabilities](#)
 - i. The SERR Manual answers many more nuanced questions about what happens during expulsion/suspension for a student with a disability.
 - ii. Scan through the table of contents (framed as questions) to see if any section will answer your question or might have information you should know!

APPENDIX

EXTENSION OF SUSPENSION MEETING NOTICE



NEWARK UNIFIED SCHOOL DISTRICT

5715 Musick Avenue
Newark, CA 94560-2554
510-818-4103 Fax: 510-794-2199

BOARD OF EDUCATION

Nancy Thomas, President
Charlie Mensinger, Vice President
Gary Stadler, Member
Ray Rodriguez, Member
Jan Crocker, Member

SUPERINTENDENT
Dave Marken, Ed.D.

Hand Delivered

[REDACTED]

Ms. [REDACTED]
[REDACTED] #D

RE: Suspension-Extension Conference for

[REDACTED] (DOB: [REDACTED])

Grade [REDACTED] at [REDACTED] School

Dear Ms. [REDACTED]

This letter is intended to summarize our meeting on Tuesday, [REDACTED]. You met with me, acting as the Superintendent's designee for discipline matters, and the administration of the school in the school office. At the conclusion of that meeting, I explained to you that [REDACTED]'s *suspension is extended* until the Board of Education has made a final decision.

This letter is to inform you that based on information provided by the administration from [REDACTED] Elementary School, I extended the suspension of [REDACTED] for violation of Education Code Sections 48900/48915. An Administrative Hearing will be scheduled within thirty (30) school days from the date the recommendation for expulsion was made by the high school administration. My office, will notify you of the date and time as soon as it has been scheduled.

The extension of [REDACTED]'s suspension is in accordance with California Education Code 48911. It is agreed that the continued presence of [REDACTED]'s presence at [REDACTED] Elementary School would cause a danger to persons or property or a threat of disrupting the instructional process. [REDACTED] is not to be on any school campus during the duration of his suspension.

If you have any questions, please call me directly at ([REDACTED]).

Sincerely,

William Whilton
Coordinator of Pupil Services

ww

cnc: Ed Code 48911 ✓

xc: [REDACTED] School, for student's CUM file

EXTENSION OF SUSPENSION NOTICE



Hayward Unified School District *Building a Culture of Success*

Suspension Extension Notification

Date: 1/9/00

RE: [REDACTED]

DOB: [REDACTED]

Student ID: [REDACTED]

Dear [REDACTED]

On 1/9/00, you were invited to attend a meeting to discuss the suspension of your child [REDACTED] and a possible extension of the suspension.

After reviewing the documentation of [REDACTED]'s suspension and based on the evidence presented to me, I have determined that [REDACTED]'s suspension will be extended pending an expulsion hearing. As this is the recommendation, please note the following:

- The suspension is extended pending an expulsion hearing and until the Board of Education takes final action due to my conclusion that the student's placement at school or in an alternative school would cause:
☒ a danger to persons or property, OR
☒ a threat to disrupt the instructional process
- A letter will be sent to you informing you of the date and time of the expulsion hearing.
- During the period of this suspension, [REDACTED] may not come onto any Hayward Unified School District campus or grounds and may not attend any Hayward Unified School District sponsored activity until the final decision of the HUSD Board of Education.

Description of Incident: [REDACTED]

Education Code Violations:

48915 c 5

48900B, 48900 H, 48915 a 10

Parent/Guardian Present:

(Signature)

(Date)

Should you have any questions, please feel free to call our office at (510) 723-3857 ext.34229.

Sincerely,

Mat Clark
Director of Student Placement
Student Services Department

CC: Expulsion Hearing Panel
Site Administrator

Mat Clark
Director, Student Placement
Student Services
Phone: (510) 723-3857 ext. 34229
Fax: (510) 781-6166
mclark@hUSD.k12.ca.us

Alternative Education/ Student, Family & Community Services/MCjb_2021

EXHIBIT D

MANIFESTATION DETERMINATION REVIEW (MDR) MEETING NOTICE



HAYWARD UNIFIED SCHOOL DISTRICT

Building a Culture of Success



Manifestation Determination Form for a student with a 504 Plan

Date of Meeting: [redacted] Date of 504 Plan: [redacted]
Pupil: [redacted] Birthdate: [redacted] Grade: [redacted]
School: [redacted] GO #: [redacted] Date of Incident: [redacted]

The 504 Team is conducting this meeting to determine whether or not the alleged misconduct of the Pupil named above was caused by, or a direct manifestation of, the Pupil's disability and whether or not the 504 Plan was being implemented. The team reviewed and considered Pupil's health records, school discipline records, evaluation results, observations of the student, information provided by Pupil's parents and Pupil's 504 Plan (see 504 Comments Sheet for more details).

Pupil's 504 Disability: [redacted]

Determination:

Was the conduct in question caused by, or was there a direct and substantial relationship to the child's disability? ☐ Yes ☒ No

Was the conduct in question the direct result of the LEA's failure to implement the 504 plan? ☐ Yes ☒ No

A "No" answer to both of these questions indicates that the behavior is determined not to be a manifestation of the child's disability. The relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities.

A "Yes" answer to either of these questions indicates that the behavior is determined to be a manifestation of the child's disability. The Section 504 team must convene a meeting and determine what supports are necessary to meet the student's needs in the least restrictive environment.

Parent/Guardian agrees with the determination of the Manifestation Determination Team: ☐ Yes ☒ No [redacted] (guardian to initial)

V. Sargent
Principal, Vice Principal or Designee

[redacted]
Parent

[Signature]
School Psychologist

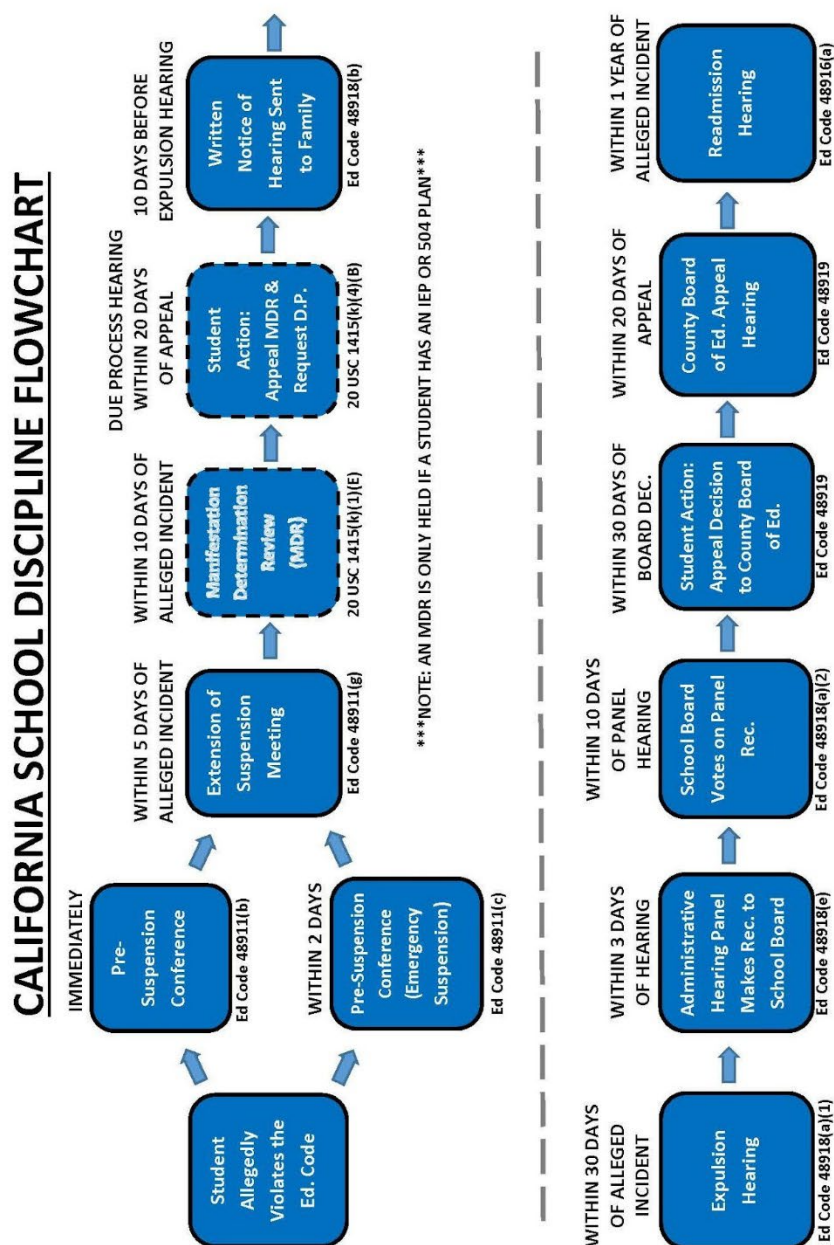
[redacted]
Parent

A copy of the written notice of this meeting that was provided to the parents is attached to this document.
A copy of this document provided to the parent constitutes written notice of the 504 Team decision.
Enclose a copy of the **Section 504 Procedural Safeguards** with all written notices.

Alternative Education/ Student & Family Services/kh_2014

California School Discipline (Suspension/Expulsion) Flowchart

References to “days” in the flowchart refer to school days—which exclude weekends & school holidays—except for: (1) the district must send written notice of an expulsion hearing 10 calendar days before the hearing; and (2) an appeal must be filed within 30 calendar days of the expulsion hearing.



Flowchart Vocabulary Key

- **Ed. Code:** California Education Code is a section of California laws which governs many education-related matters.
- **USC:** United States Code is federal law.
- **Pre-Suspension Conference:** the first meeting about a possible suspension. Often a meeting with a principal or vice-principal where the student is told they can “tell their side of the story” and provide a written statement. The student may choose not to say or write anything because any statement they make or write can be used against them at an expulsion hearing or in delinquency court.
- **IEP/504 Plan:** types of plans to support students with disabilities in school. Supports provided through these plans are sometimes called special education services and accommodations.
- **MDR:** a Manifestation Determination Review is a meeting that students with disabilities (or suspected disabilities) are entitled to with their special education team before their district may move forward with an expulsion process.
- **D.P.:** Due Process Complaints are a type of legal complaint that can be filed if a school or district is violating laws protecting a student with, or who is suspected of having, a disability.
- **Administrative Hearing Panel Rec.:** a recommendation to the School Board by the “judges” at the expulsion hearing (usually three current or former administrators in the district) about whether the student should be expelled.
- **County Board of Ed.:** the County Board of Education is the next level of local government above a school district. They hold a hearing and decide whether to allow the school district to expel the student when a student and their family appeal an expulsion. They are also in charge of running the county school which students who are expelled attend.
- **Appeal:** involves sending a legal explanation of why the school district should not have expelled the student (there are only certain things that the Board of Education will consider as reasons to change the district's decision to expel). Triggers a hearing in front of the Board of Education to decide whether the expulsion may continue. The student will generally attend the school the school district tells them to go to during their expulsion (usually Quest Academy for districts in Alameda County) until the appeal decision is made.
- **Readmission Hearing:** a meeting, typically with a district administrator, to determine whether a student who has been expelled meets the district’s criteria (usually completing a rehabilitation plan) for re-admission to their original school.