

STUDENTS

Student Expulsion Appeals

The Inyo County Board of Education shall hear and determine an appeal of an expulsion order issued against a student by a school district within the jurisdiction of the county.

A student expelled by the governing board of a school district or his/her parent/guardian (appellant) may appeal the expulsion to the County Board within 30 days of the school district's action. The appeal shall be filed in writing and shall include the following information:

1. Name of the expelled student
2. Contact address and telephone number of the student and/or parent/guardian
3. Name of respondent school board
4. Date of respondent school board's action to expel student
5. Ground(s) on which appeal is based

The appellant shall submit to the County Board a certified copy of the written transcripts and supporting documents of the proceedings before the school district. Because delay in receiving the transcripts may prejudice the student's case, the student is encouraged to request a copy of the transcripts and other related records from the district no later than the date on which the appeal is filed. (Education Code 48921)

The County Board shall hold a hearing within 20 school days of the filing of the appeal. (Education Code 48919)

No later than 10 days prior to the hearing, the secretary to the County Board shall serve upon the student and the respondent school board, by express mail with waiver signature, a notice of the hearing including details such as the date, time and place of the hearing. The notice shall also contain a statement that the hearing shall be in closed session unless the student requests in writing at least five days prior to the hearing, that the hearing be conducted in open session.

Conduct of Expulsion Hearing

1. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the County Board shall hear an appeal of an expulsion order in closed session, unless the student requests in writing at least five days prior to the hearing that the hearing be conducted at a public

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meeting. If such request is made, the hearing shall be public unless another student's privacy rights would be violated. (Education Code 48920)

Whether the expulsion hearing is held in closed or public session, the County Board may meet in closed session to deliberate on the appeal. If the County Board admits one of the parties or their representative(s) to the closed session, the other party or their representative(s) shall also be allowed to attend the closed session. (Education Code 48920)

2. Record of Hearing: 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 complete written transcription of the proceedings can be made. (Education Code 48919)

Scope of Review

The County Board shall determine the appeal based on the record of the hearing before the district governing board and other applicable documentation and/or regulations. No evidence other than that contained in the record of proceedings of the district governing board shall be heard except in a *de novo* proceeding, granted pursuant to Education Code 48923. (Education Code 48921)

A *de novo* proceeding involves an independent determination by the County Board, of all the issues previously considered by the school district's governing board.

The County Board's review shall be limited to: (Education Code 48922)

1. Whether the governing board acted without or in excess of its jurisdiction.
2. Whether there was a fair hearing before the governing board.
3. Whether there was a prejudicial abuse of discretion in the hearing. Abuse of discretion is established if:
 - a. School officials did not meet the procedural requirements of Education Code 48900-48926;
 - b. The decision to expel the student is not supported by the findings prescribed by Education Code 48915; or
 - c. The findings are not supported by the evidence

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4. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.

Final Order of the County Board

The County Board shall render its final decision within three school days of the hearing unless the student requests a postponement. (Education Code 48919)

The County Board's decision shall be limited as follows: (Education Code 48923)

1. Where the County Board finds that relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced, or which was improperly excluded at the hearing before the governing board, the County Board may remand the matter to the governing board for reconsideration or grant a hearing de novo.
2. Where the County Board determines that the governing board's decision is not supported by findings required to be made by Education Code 48915, but evidence supporting such findings exists in the record of the proceedings, the County Board shall remand the matter to the governing board for adoption and inclusion of the required findings.
3. In all other cases, the County Board shall either affirm or reverse the decision of the governing board. If the County Board reverses a governing board's decision, the County Board may direct the governing board to expunge all references to the expulsion action from the district and student's records, and the expulsion shall be deemed not to have occurred.

The decision of the County Board shall be final and binding upon the student and the governing board. The student and the governing board shall be notified of the final order of the County Board, in writing, either by personal service or by certified mail. The order shall become final when rendered. (Education Code 48924)

Legal References:

EDUCATION CODE
1981 Enrollment of students

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17292.5 Program for expelled students
35145 Public meetings
35146 Closed sessions (re suspensions)
35291 Rules (for government and discipline of schools)
35291.5 Rules and procedures on school discipline
48660-48666 Community day schools
48900-48926 Suspension and expulsion
48950 Speech and other communication
49073-49079 Privacy of student records

GOVERNMENT CODE

11455.20 Contempt
54950-54962 Ralph M. Brown Act (re closed sessions)

COURT DECISIONS

Board of Education of Sacramento City Unified School District v. Sacramento
County Board of Education and Kenneth H., (2001) 85 Cal.App.4th 1321
Garcia v. Los Angeles Board of Education (1991) 123 Cal.App.3d 807
Fremont Union High School District v. Santa Clara County Board (1991) 235 Cal.
App. 3d 1182
John A. v. San Bernardino School District (1982) 33 Cal. 3d 301, 308

Management Resources:

CDE PROGRAM ADVISORIES
0306.96 Expulsion Policies and Educational Placements, SPB 95/96-04

WEB SITES

CDE: <http://www.cde.ca.gov>
CSBA: <http://www.csba.org>

BOARD POLICY:

First Reading/Adoption: February 20, 2004

INYO COUNTY BOARD OF EDUCATION
EXPULSION APPEAL HEARING PROCEDURES

TIMELINES

- A. The pupil, parent or guardian must request an appeal to the County Board of Education within 30 days following a local governing board decision to expel.
- B. The pupil shall submit a request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the County Board of Education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within ten school days following the pupil's request. The pupil shall immediately file suitable copies of these records with the County Board of Education.
- C. The County Board shall hold the hearing within 20 school days following a filing of a formal request.
- D. A decision of the County Board shall be rendered either at the conclusion of the hearing, or within three school days of the hearing.

PRE-HEARING PROCEDURES

- A. Once a hearing date has been established, notices will be sent to the pupil and to the local governing board including a copy of these procedures.

HEARING PROCEDURE

- A. The County Board shall hear an appeal in closed session, unless the pupil requests, in writing, at least five days prior to the date of the hearing, that it be conducted in a public meeting.
- B. Whether a closed or public hearing is conducted, the County Board may meet in closed session for the purpose of deliberations.
- C. If the County Board admits any representative(s) of the pupil or school district, the board shall, at the same time, admit representatives of the opposing party.
- D. The County Board shall determine the appeal based upon the records of the hearing conducted before the district board, along with any appropriate documentation requested. No evidence other than that contained in the record of the district proceedings may be heard unless the County Board finds that relevant evidence exists which could not have been produced, or which was improperly excluded at the hearing before the local board.

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REVIEW LIMITATIONS

The review by the County Board shall be limited to the following questions:

- A. Whether the local board acted without, or in excess of its jurisdiction, as follows:
 - 1. The expulsion hearing was not held within the time periods prescribed by law.
 - 2. The expulsion was not based upon the acts included in Ed. Code Section 48900 (enclosed).
 - 3. The acts were not related to school activity or attendance.
 - B. Whether there was a fair hearing before the local board.
 - C. Whether there was prejudicial abuse of discretion in the hearing, as follows:
 - 1. School officials did not meet the procedural requirements of the Ed. Code.
 - 2. The decision to expel the pupil was not supported by the findings prescribed in Ed. Code Section 48915 (enclosed).
 - 3. The findings were not supported by the evidence.
 - 4. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board.
- Note: The County Board may not reverse the decision of a local school board based upon a finding of abuse of discretion unless it determines that the abuse was prejudicial.

COUNTY BOARD DECISION

The decision of the County Board shall be as follows:

- A. Where the County Board finds that relevant evidence exists which could not have been produced or which was improperly excluded at the local hearing, it may do either of the following:
 - 1. Remand the matter to the local board for reconsideration and may, in addition, order the pupil reinstated pending such reconsideration.
 - 2. Grant a new hearing, with reasonable notice, to the pupil and local board which shall be conducted by the County Board in accordance with all rules and procedures of the County Board.

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- B. In all other cases, the County Board shall enter an order either affirming or reversing the decision of the local board, and shall so notify both parties in writing either by personal delivery or by certified mail. If a decision to reverse the decision of the local board is made, the County Board may also direct the local board to expunge the records of the pupil relating to the expulsion, and the records of the district of any reference to the expulsion action, and such expulsion be deemed not to have occurred.

The decision of the County Board is final and binding upon the pupil and local governing board, and becomes final when rendered.