



Department of Children and Family Services Policy and Procedure Guide

Division No: 3–Child Welfare

Effective Date:
November 19, 2008

Chapter No: 14–Education

Item No: 3–Expulsions

POLICY: It is the policy of the Department of Children and Family Services (DCFS) that the case managing social worker of a dependent child who has been recommended for expulsion ensure that the child and the educational rights holder for this child are aware of his/her due process rights and that this social worker provide support for this child through this process.

PURPOSE: The purpose is to ensure that the child is provided with all his/her rights and has his/her due process rights.

REFERENCES: California Education Code (EC) Section 48900, 48900.2-.4 and .7, 48915(b), 48916(a), (c), 48916.l, 48917(c), (d), 48918(a), (b), (b)(5), (d), (f), 48922 and 48924

PROCEDURE:

- I. THE CASE MANAGING SOCIAL WORKER MUST UNDERSTAND THAT THE CHILD HAS DUE PROCESS RIGHTS WHICH INCLUDE:
 - A. Before a student can be expelled, the district must conduct a hearing.
 - B. The hearing must be held within 30 school days after the school recommended the student for expulsion, unless the student requests that the hearing be postponed.

Submitting Party Division/Program Manager/ Deputy Director Approval	–	<u>Kaye Fredrickson</u>	–	<u>1/31/08</u>
		Name		Date
Assistant Director’s Approval	–	<u>Andrea Sobrado</u>	–	<u>6/11/08</u>
		Name		Date
Director’s Approval	–	<u>Catherine A. Huerta</u>	–	<u>11/19/08</u>
		Name		Date

Item 3 - Expulsions

- C. The student must receive written notice of the hearing at least 10 calendar days before the hearing and this notice must include:
 - 1. the date and place of the hearing
 - 2. a statement of specific facts regarding the basis for the expulsion recommendation
 - D. The student has the right to bring a lawyer or other advocate to the hearing
 - E. At the hearing, the student can bring his/her own witnesses and/or ask that the district subpoena witnesses.
 - F. The student has the right to question the witnesses and present evidence
 - G. In general, the governing board cannot base a decision to expel a student solely on hearsay
- II. THE CASE MANAGING SOCIAL WORKER MUST UNDERSTAND THAT IN ORDER TO EXPEL A STUDENT, THE SCHOOL DISTRICT MUST DO THE FOLLOWING:
- A. Honor the student's due process rights by meeting all procedural and time requirements
 - B. Demonstrate that there are grounds for the expulsion [Grounds include an act prohibited by the Education Code and a connection to school]
 - C. Demonstrate that either other means of correction are not feasible or have failed to bring about proper conduct, or that due to the nature of act, the presence of the student causes a continuing danger to the physical safety of the student or others.
- III. WHEN SECONDARY FINDINGS ARE NOT REQUIRED
- A. The case managing social worker must understand that in some cases secondary findings are not required. In these situations, the governing board must expel a student if the district establishes that the student committed one of the following acts and a connection to the school (Zero Tolerance Offenses):

Item 3 - Expulsions

1. possessing, selling, or furnishing a firearm
 2. brandishing a knife
 3. selling a controlled substance
 4. committing or attempting to commit sexual assault
- IV. UPON LEARNING OF THE EXPULSION PROCEEDINGS FROM THE CHILD'S CARE PROVIDER THE SOCIAL WORKER MUST INFORM FOLLOWING OF THE DATE AND TIME OF THE EXPULSION HEARING:
- A. the child's parent(s)/guardian(s) if not the care provider of the child
 - B. the child's attorney
 - C. the office of the County Counsel
 - D. the SWS and/or PM about whether DCFS wants any guidance from County Counsel
 - E. the DCFS's Educational Liaison
- V. THE CASE MANAGING SOCIAL WORKER SHALL ALSO MAKE ALL ATTEMPTS TO ATTEND THE EXPULSION HEARING
- A. to give support to the child
 - B. to assure, along with the attorneys involved, that the child is being provided his/her due process rights