Expulsion Defense and You

A Practice Guide and Workbook for Expulsion Defense

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TABLE OF CONTENTS

INTRODUCTION **9**

How to Use This Manual 11
Practice Tips for Working with Districts 11

CHAPTER 1 USING PUBLIC DATA **13**

Chapter 1 Roadmap 14
Study Guide 15
How can data help you strengthen your expulsion case? *15*
What is the California School Dashboard, and how do you access data? *15*
How do you interpret Dashboard data to demonstrate discrimination? *16*

CHAPTER 1 TOOLKIT **18**

Chapter 1 Glossary 18
Supported Practice 19
Independent Practice 21
Answer Key 23
Supported Practice *23*
Independent Practice *25*

CHAPTER 2 OVERVIEW OF EXPULSIONS **26**

Chapter 2 Roadmap 27
Study Guide 28
What is an expulsion? *28*
What are the stages of an expulsion case? *28*
What is the timeline for an expulsion case? *28*
What are the possible outcomes in an expulsion case? *29*
What rights do parents and students have in an expulsion case? *29*

CHAPTER 2 TOOLKIT **31**

Chapter 2 Glossary 31
How to use the Expulsion Timeline: *32*
Supported Practice 33
Activity A – Counting Schooldays v. Calendar Days *33*
Activity B – Using the Expulsion Timeline One-Pager *35*
Independent Practice 36
Answer Key 37
Supported Practice Activity A *37*
Supported Practice Activity B *39*
Independent Practice *41*

CHAPTER 3 SUSPENSION ADVOCACY **42**

Chapter 3 Roadmap 43
Study Guide 44
What is a suspension? *44*
How can you tell when a suspension breaks the law? *44*
What are the substantive requirements for a suspension? *44*

Did the behavior violate the Education Code? 44
Did the school try other means of correction? 46
What are the procedural requirements for a suspension? *46*
Did the school investigate before deciding to suspend my student? 46
Did the school give the student an opportunity to attend a pre-suspension conference? 47
Did the principal or a designee hold a pre-suspension conference? 47
Did the school give the student a chance to tell their side of the story? 47
Did the school show the student evidence of the violation? 47
Did the school explain why they were suspending the student? 47
Did the school provide the guardian with written notice that follows the law? 47

CHAPTER 3 TOOLKIT 48

Chapter 3 Glossary 48
Elements of California Education Code Section 48900 Violations 50
Suspension Compliance Tracker 54
Supported Practice 57
Independent Practice 59
Answer Key 63
Supported Practice *63*
Independent Practice *64*

CHAPTER 4 EXTENSION OF SUSPENSION 66

Chapter 4 Roadmap 67
Study Guide 68
What is an extension of suspension? *68*
How can you tell when an extension of suspension breaks the law? *68*
What are the substantive requirements for an extension of suspension? *68*
Was there an initial suspension to extend? 68
Has the school recommended the student for expulsion? 68
What is the continuing danger standard? 68
What are the procedural requirements for an extension of suspension? *69*
Did the school district invite the student and guardian to an extension of suspension conference? 69
Did the conference take place before the initial suspension ended? 69
Was the conference led by the superintendent or their designee? 69
Did the guardian receive written notice of the extension of suspension that follows the law? 69

CHAPTER 4 TOOLKIT 70

Chapter 4 Glossary 70
Extension of Suspension Compliance Tracker 71
Extension of Suspension Conference Preparation Outline 72
Supported Practice 76
Independent Practice 78
Answer Key 86
Supported Practice *86*
Independent Practice *87*

CHAPTER 5 EXPULSION RECOMMENDATION 90

Chapter 5 Roadmap 91
Study Guide 92
What is an expulsion and how can you tell if it breaks the law? *92*

What are the substantive requirements for an expulsion? *92*
Did the behavior violate the Education Code? 92
Is the violation discretionary, medium discretionary, or zero tolerance? 92
Discretionary Violations 93
Medium Discretionary Violations 93
Mandatory Expulsion ("Zero Tolerance") Violations 94
Can the student argue that they acted in self-defense? 94
Does the district have to prove secondary findings? 94
Has the district tried other means of correction? 94
Can the district prove that the student poses a "continuing danger"? 95
What are the procedural requirements for an expulsion? *95*
Did the district follow required procedures for suspension? 95
Did the district follow required procedures for extension of suspension? 95
Did the district hold an MDR, if required? 95
Did the district schedule the expulsion hearing within 30 schooldays? 96
If the student requested postponement, did the school grant the request? 96
Did the district provide written notice of the expulsion hearing at least 10 calendar days before the hearing? 96
Did the district's notice include all legally required components? 96

CHAPTER 5 TOOLKIT 97

Chapter 5 Glossary 97
Elements of California Education Code Sections 48900 and 48915 Violations 98
Expulsion Compliance Tracker 104
Supported Practice 106
Independent Practice 107
Answer Key 111
Supported Practice *111*
Independent Practice *112*

CHAPTER 6 MANIFESTATION DETERMINATION REVIEWS 114

Chapter 6 Roadmap 115
Study Guide 116
What is an MDR? *116*
What two questions does every MDR team need to answer? 116
What rights does a disabled student have in an MDR? 116
Do these protections only apply for students with IEPs? *117*
Defining Basis of Knowledge 117
Exceptions to Basis of Knowledge 117
How do I prepare for an MDR? *118*

CHAPTER 6 TOOLKIT 119

Chapter 6 Glossary 119
MDR Compliance Tracker 120
MDR Preparation Chart 121
Supported Practice 126
Independent Practice 128
Answer Key 130
Supported Practice *130*
Independent Practice *132*

CHAPTER 7 HEARING PREP: OVERVIEW 134

Chapter 7 Roadmap 135
Study Guide 136
What is the structure of an expulsion hearing? *136*
Who Attends the Hearing? 136
What are the steps to prepare for an expulsion hearing? *137*
Step 1 (Chapter 8): Review records and check the expulsion packet for completeness 137
Step 2 (Chapter 9): Create your evidence chart 137
Step 3 (Chapter 10): Draft direct exam questions and prepare your witnesses 137
Step 4 (Chapter 11): Draft cross exam questions 137
Step 5 (Chapter 12): Draft opening statement and closing argument 137

CHAPTER 7 TOOLKIT 138

Chapter 7 Glossary 138

CHAPTER 8 STEP 1: REVIEWING RECORDS 139

Chapter 8 Roadmap 140
Study Guide 141
What is a cumulative file? *141*
What records are included in a cumulative file? 141
How can you request a student's cumulative file? 141
What is an expulsion packet? *141*
What documents might be included in an expulsion packet? 141
How can you request a student's expulsion packet? 142
What is the hearsay only rule? 142
When should you request missing documents from an expulsion packet? 143
How should you organize and review education records and documents? *143*
What records should you review for an expulsion hearing? *144*
What other documents can you gather and use as evidence at a hearing? *144*

CHAPTER 8 TOOLKIT 145

Chapter 8 Glossary 145
Sample Authorization Form 146
Sample Records Request Letter 147
Guide for reviewing and organizing records 148
Supported Practice 150
Independent Practice 153
Answer Key 155
Supported Practice *155*
Independent Practice *157*

CHAPTER 9 STEP 2: EVIDENCE CHART 158

Chapter 9 Roadmap 159
Study Guide 160
How do you determine what you should use as evidence? *160*
How to identify and evaluate your theory of the case? *160*
Why create an evidence chart? *163*
How do you create an evidence chart? *163*
How do you select witnesses for each document? *163*
Should the student testify? *163*
Pros and cons of the student testifying live 164

Pros and cons of the student providing a written statement 164
Pros and cons of the student not providing testimony 165
Should you bring other witnesses for the student? *165*

CHAPTER 9 TOOLKIT 166

CHAPTER 9 GLOSSARY 166
STUDENT'S EVIDENCE CHART 167
SUPPORTED PRACTICE 168
INDEPENDENT PRACTICE 170
Supported Practice *187*
Independent Practice *188*

CHAPTER 10 STEP 3: DIRECT EXAM PREP 194

CHAPTER 10 ROADMAP 195
STUDY GUIDE 196
What is direct examination? *196*
How do you frame direct examination questions? *196*
What are open-ended questions? 196
How long should your questions be? 196
Tip 1: Avoid asking long questions 196
Tip 2: Avoid asking compound questions 197
Should you ask questions you do not know the answers to? 197
What if the district objects to your question? *197*
How do you introduce evidence through direct examination? *198*
What does it mean to have a witness establish personal knowledge? 198
What does it mean to authenticate evidence? 199
How do you prepare witnesses for direct examination? *199*

CHAPTER 10 TOOLKIT 200

CHAPTER 10 GLOSSARY 200
DIRECT EXAMINATION DRAFTING AND EDITING CHECKLIST 201
SUPPORTED PRACTICE 204
INDEPENDENT PRACTICE 205
ANSWER KEY 207
Supported Practice *207*
Independent Practice *208*

CHAPTER 11 STEP 4: CROSS EXAM AND IMPEACHMENT PREP 211

CHAPTER 11 ROADMAP 212
STUDY GUIDE 213
What is cross examination? *213*
How do you frame cross examination questions? *213*
What are closed-ended questions? 213
What issues should you focus on in cross exam? 214
How do you adapt to a witness' answers during cross exam? 214
How does "reading" your witness affect cross exam? 214
How long should cross exam questions be? 215
Should you ask questions you do not know the answers to? 215
What is impeachment? *215*
What are the "three C's" of impeachment? 215

What is impeachment by contradiction? 216
What is impeachment by omission? 217
What is impeachment by bias? 217
How and when should you object to district witnesses' testimony? *218*

CHAPTER 11 TOOLKIT 219

Chapter 11 Glossary 219
Cross Examination Drafting and Editing Checklist 220
Sample Cross Examination 223
Sample Impeachment 224
Supported Practice 226
Independent Practice 227
Answer Key 229
Supported Practice *229*
Independent Practice *231*

CHAPTER 12 STEP 5: PREPARING OPENING STATEMENT AND CLOSING ARGUMENT 233

Chapter 12 Roadmap 234
Study Guide 235
What is an opening statement? *235*
What is the purpose of an opening statement? 235
What should I talk about in my opening statement? 235
Should an opening statement be argumentative? 236
What is a closing argument? *236*
What is the purpose of a closing argument? 236
What should I talk about in my closing argument? 236
Should I talk about the school district's procedural and substantive violations in my closing argument? 237

CHAPTER 12 TOOLKIT 238

Chapter 12 Glossary 238
Roadmap for Preparing an Opening Statement 239
Roadmap for Preparing a Closing Argument 241
Supported Practice 243
Independent Practice 246
Answer Key 247
Supported Practice *247*
Independent Practice *248*

CHAPTER 13 THE EXPULSION HEARING 250

Chapter 13 Roadmap 251
Study Guide 252
How can I tell if any of the hearing panel members are improper? *252*
What is the structure of an expulsion hearing? *252*
How does the hearsay only rule affect my strategy at hearing? *252*
How do I create a record of the hearing for appeal? *253*

CHAPTER 13 TOOLKIT 254

Chapter 13 Glossary 254
Supported Practice 255

Independent Practice 257
Answer Key 258
Supported Practice *258*
Independent Practice *259*

CHAPTER 14 POSSIBLE OUTCOMES OF HEARING 260

Chapter 14 Roadmap 261
Study Guide 262
What are the possible outcomes after an expulsion hearing? *262*
When will you learn the panel's decision and how will you be notified? *262*
What happens if your student is not expelled? *262*
What happens if your student is expelled? *263*
What types of placements can your expelled student be sent to? 263
What is a rehabilitation plan? 264
What is a readmission meeting? 264
What happens if your student is placed on a suspended expulsion? *264*
What happens if the student violates a school rule while on a suspended expulsion? 265
If the student is offered a suspended expulsion before or after the expulsion hearing, what are the pros and cons of accepting it? 265
What happens if your student is offered a stipulated expulsion? *266*
If the student is offered a stipulated expulsion before or after the expulsion hearing, what are the pros and cons of accepting it? 266

CHAPTER 14 TOOLKIT 267

Chapter 14 Glossary 267

CHAPTER 15 BOARD APPROVAL AND APPEALS 268

Chapter 15 Roadmap 269
Study Guide 270
What is a school board's role in expulsion proceedings? *270*
How can you research school board members? 270
How do you determine what the school board's policy is for speaking during closed sessions? 270
What "last chance" arguments can you make to a school board? 270
What happens during an expulsion appeal? *271*
Can every expulsion case be appealed? 271
What is the timeline for appeal? 272
What information does the county office of education consider on appeal? 272
What is an appeal brief? 273
What do I do if the county board tries to get me to settle my expulsion appeal with the district? 273

CHAPTER 15 TOOLKIT 274

Chapter 15 Glossary 274
Appeal Compliance Tracker 275
Supported Practice 276
Independent Practice 277
Answer Key 278
Supported Practice *278*
Independent Practice *279*

APPENDIX 281

Introduction

Equal access to public education is one of the most critical and transformative civil rights available to students. Education is vital to ensuring that children of all backgrounds enter society with the skills and knowledge necessary to be independent, productive, engaged, and informed. When students are excluded from their learning environments due to school discipline, their use of essential educational services, supports, and opportunities is hindered.[1] School expulsions in particular not only subject students to long-term school exclusions in less-supportive and educationally inappropriate alternative school placements,[2] but they also create the additional consequences of traumatizing students, jeopardizing their mental health, and subjecting them to needless and trajectory-altering contact with the criminal legal system.[3]

Research has shown that students who are expelled have a greater risk of dropping out of school because they fall behind in schoolwork, feel disconnected from school, and feel targeted, singled out, or unsupported by teachers and administrators. Expelled students are less likely to attend college and, consequently, are more likely to be economically insecure and relegated to low-wage jobs as adults.[4] Students of color and students with disabilities are most likely to be harmed, as school districts' racist and ableist policies and practices result in them being expelled at drastically higher rates than white, nondisabled students.

The plain text of the California Education Code permits the inference that students are not meant to navigate a process as complex and consequential as expulsion on their own. In fact, Section 48918(b)(5) of the Education Code states that the student or the student's parent or guardian has the right **"to be represented by legal counsel or by a non-attorney adviser"** in an expulsion hearing.

This manual is designed to instruct both legal counsel and non-attorney advisers to defend students from expulsion.[5] Its intent is to move education advocacy towards a world where no student or family is forced to defend an expulsion alone, recognizing that the number of students in California facing expulsion every year dwarfs the current number of attorneys with the bandwidth and expertise to support them. While it takes time and dedication to develop the skills and knowledge it takes to effectively defend against expulsions, the advocacy skills can be learned, and you do not need to be an attorney to become an expert in this area.

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[1] Andrew Bacher-Hicks, Stephen B. Billings & David Deming, The School to Prison Pipeline: Long Run Impacts of School Suspension on Adult Crime, National Bureau of Economic Research (2019).

[2] See, e.g., U.S. Gov't Accountability Off., GAO-19-373, K-12 Education: Certain Groups of Students Attend Alternative Schools in Greater Proportions Than They Do Other Schools (2019); U.S. Gov't Accountability Off., GAO-20-310, K-12 Education: Information on How States Assess Alternative School Performance (2020).

[3] Elizabeth Pufall Jones, Max Margolius, Miriam Rollock, Catalina Tang Yan, Marissa L. Cole & Jonathan F. Zaff, Disciplined and Disconnected: How Students Experience Exclusionary Discipline in Minnesota and the Promise of Non-Exclusionary Alternatives (2018) p. 3.

[4] Mara Eyllon, Carmel Salhi, John L. Griffith & Alisa K. Lincoln, Exclusionary School Discipline Policies and Mental Health in a National Sample of Adolescents without Histories of Suspension or Expulsion (2020).

[5] This manual is for informational purposes only. It is not legal advice and does not create an attorney-client relationship. This manual should not replace an individualized assessment of a case.

How to Use This Manual

This manual is structured like a workbook, taking you through each phase of an expulsion, from behavioral incident to hearing to appeal. Each chapter adheres to the following structure:

1. **Roadmap**

The first page of each chapter is a Roadmap providing a one-page overview of the content and learning goals of the section. This gives you a sense of the content and activities within each chapter at a glance so that you can move through the workbook sequentially or review the portions that are most helpful for you as you prepare to defend a student in an expulsion.

2. **Study Guide**

Each chapter begins with a Study Guide providing a concise explanation of the law and advocacy strategies for how to use the law to effectively defend a student from expulsion at each stage of the disciplinary process.

3. **Toolkit**

Toolkits contain a glossary along with practical handouts and charts to help you advocate for a student at each stage of the expulsion process. Each entry in the toolkit applies the legal skills taught in the chapter and contains an explanation of how and when to use the resource.

4. **Supported Practice and Independent Practice**

Both supported practice and independent practice allow you to apply a skill helpful to developing your advocacy. Both allow you to practice using the materials and resources in your Toolkit. Supported practice activities give you an opportunity to practice a skill with more guidance, while independent practice is self-directed and requires strategic application of facts from a simulated hypothetical expulsion. Answer keys are found at the end of the chapter.

Practice Tips for Working with Districts

Here are some overall tips that will make building your case against a district easier:

1. **Memorialize <u>everything</u> in writing**

   We mean <u>everything</u>. Take notes during phone calls, send confirming emails of information the district tells you or the family verbally, and ask that all communications be written. This reduces the chances that your word will be pitted against the district's and allows you to readily turn written communications into evidence at the hearing.

2. **Memorialize missed deadlines and other violations by email**

   Along the same lines, it is a good idea to memorialize missed deadlines and procedural violations that occur during your advocacy. Again, you can use emails as evidence of

procedural violations at hearing, but reminders of legal breaches can also push the district to drop the expulsion if they know the violations could cause the hearing panel to vote against expulsion or for the expulsion to be overturned on appeal.

3. **Keep communications assertive but professional**

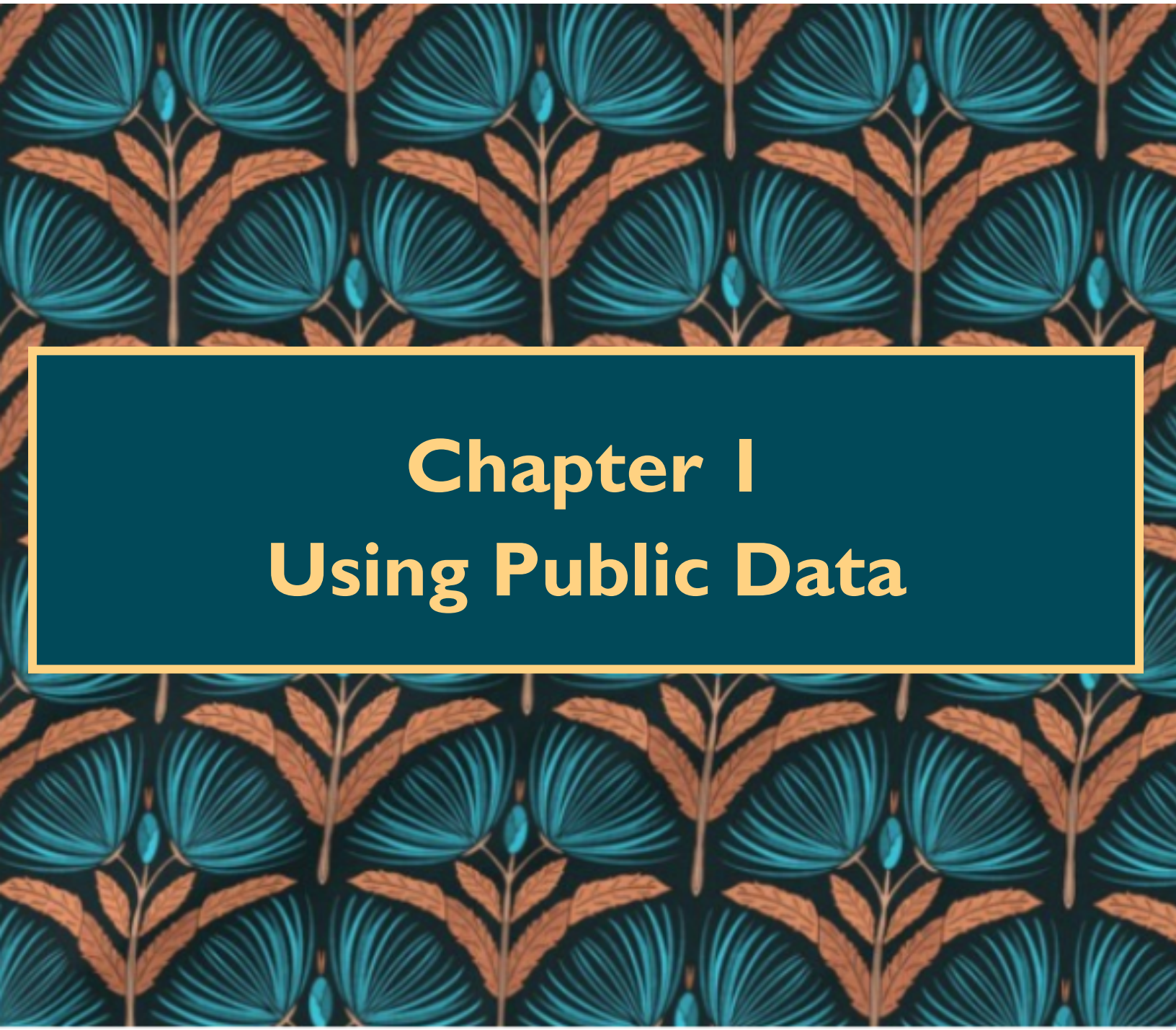
   Because any emails or other communications can become evidence, you want to make sure that you keep your tone professional. You should be assertive, while ensuring that anyone reading or learning about your communications would think that you are a reasonable and respectful. Avoid insults, condescension, and personal attacks in favor of communicating calmly and politely, providing evidence for your points, and offering to collaboratively resolve problems.

4. **Encourage your student and their family not to communicate with school, district, or law enforcement personnel alone**

   Communication includes speaking to, writing statements for, or exchanging emails without consulting with their advocate first. This is especially important if your student has a pending delinquency case or their family is undocumented. It's good to remind the student and their family that administrators can (and often do) use any information they share against them in the expulsion proceeding to justify the discipline, and they also may even pass that information along to law enforcement. Further, students under 18 should not be questioned by police, even at school, in a situation where they are not free to leave without being given the chance to talk to an attorney.

5. **Request translations and interpretation services if needed**

   If you are representing a student or family who prefers to communicate in a language other than English, remind the school district of that as soon as possible so they know to bring interpreters to conferences and provide one for the hearing. You should also request translated documents to ensure the family can review the evidence and communications in their preferred language.



Chapter 1
Using Public Data

Chapter 1 Roadmap

In this chapter, you will learn about how to use publicly available school and district ***demographic*** *and discipline data to identify patterns of discrimination in your student's district. This can enhance your arguments about legal violations and unfairness occurring in your student's expulsion and make your case more sympathetic to a hearing panel or a* ***county office of education*** *on appeal.*

Study Guide

- How can data help you strengthen your expulsion case?
- What is the **California School Dashboard**, and how do you access data?
- How do you interpret Dashboard data to demonstrate discrimination?

Toolkit Materials

- Chapter 1 Glossary

Supported Practice

- *Scavenger hunt to find helpful datapoints on the Dashboard*

Independent Practice

- *Use the Dashboard to find data for your school and district*

Study Guide

How can data help you strengthen your expulsion case?

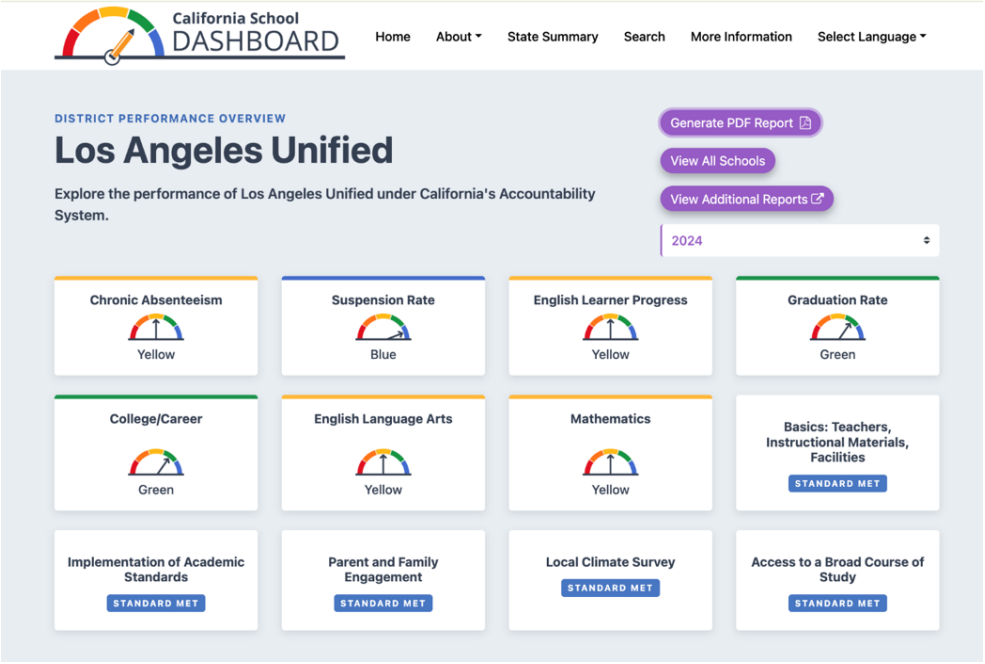
School districts in California are required by law to collect and report data to the **California Department of Education**.[6] This data is publicly available, meaning that you can access it and use it to get information on California schools and how your student's school is performing relative to other schools, districts, and the rest of the state.

As advocates, data can be a powerful tool to show how your student's expulsion is part of a larger trend of discrimination, lack of support, poor student performance, and overreliance on exclusionary discipline within your district. People are often persuaded by numbers because they can be used to illustrate patterns and practices in an objective and visual way. The decisionmakers in your expulsion case are no different—showing them discipline **disparities** present in the district's own data may persuade them to consider alternatives to expulsion that resist the problematic trends inherent in their numbers. You can also use data to argue that the district too often resorts to extreme forms of discipline without trying restorative solutions.

What is the California School Dashboard, and how do you access data?

The California School Dashboard[7] is a website maintained by the California Department of Education and is designed to provide the community with information on school and district progress by compiling and analyzing data in a visual way. The Dashboard is intended to allow parents and educators to participate in decisions to improve student learning.

Each school and district has a page on the Dashboard showing their data on several important indicators for each school year. To the right is a picture of Los Angeles Unified School District's Dashboard homepage, which provides performance data for the district at a glance for several areas, from academic achievement to attendance to school discipline.

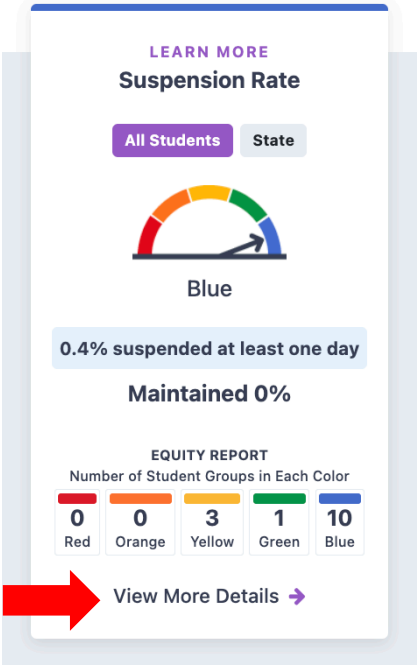


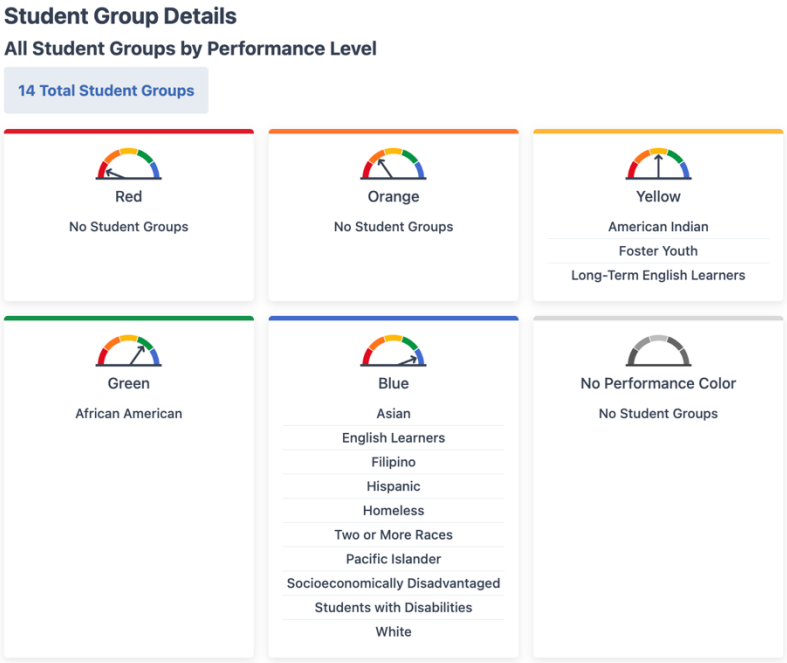
[6] California Education Code Section 60900 *et seq.*
[7] https://www.caschooldashboard.org/.

As the picture shows, each performance area on the Dashboard is given a color designation according to standards that the California Department of Education sets, with blue being highest performing and red being lowest performing. The colors are configured to look like a car speedometer, which is where the Dashboard gets its name.

Looking at this page, you can see that LAUSD performs well (in the blue and green areas) when it comes to its **suspension rate**, graduation rate, and college/career readiness. The district performs in the middle range (yellow) for chronic absenteeism, English learner progress, and performance on English language arts and math.

If you want to learn more about a particular area, you can click on that rectangle, and then select "view more details." Let's get more information about LAUSD's suspension rates, specifically, performance data for individual student groups.



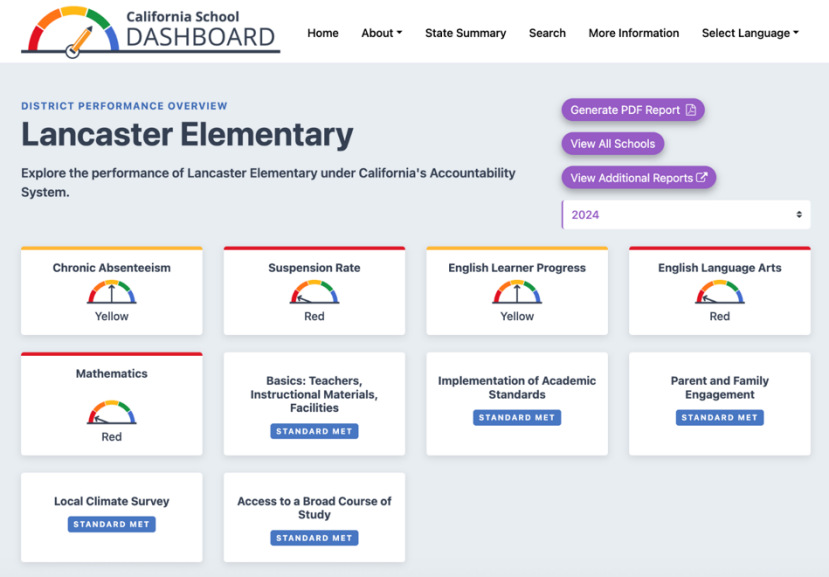


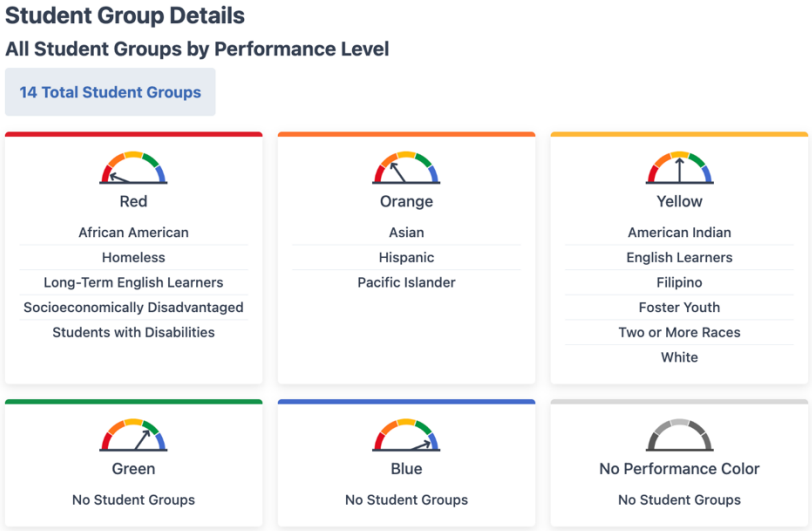
Here, you can see that while the district is rated in blue overall, it does not perform at the highest level for several student groups. For example, LAUSD's suspension rate for Black students is in the green, which while still at the higher end of the color spectrum, is not as good as the student groups in the blue category. Further, LAUSD's suspension rate for American Indian students, foster youth, and long-term English learners is in the yellow, noticeably lower than other student groups. What this tells us is that LAUSD is suspending student groups who perform below the district's average at **disproportionate** rates.

How do you interpret Dashboard data to demonstrate discrimination?

Let's look closely at a district with low overall performance and disproportionate discipline rates. You can see from Lancaster Elementary School District's Dashboard page (below) that the district performs poorly (in the red category) for their suspension rate and their academic performance in English language arts and math. The intersection of discipline and academic performance is a telling one, as it shows that this district likely struggles to provide a culture of both academic and behavioral support for all students.

Zooming in on suspension rate (below), no student groups are categorized in the blue or green areas. This is not surprising given that the district's overall suspension rate is in the red. However, looking at student groups in the orange and red areas, there are demographic groups experiencing disproportionate discipline, including Black students, homeless students, Latinx students, and students with disabilities. You can also see that white students are in the yellow category, meaning the district suspends them at much lower rates than the its overall average.



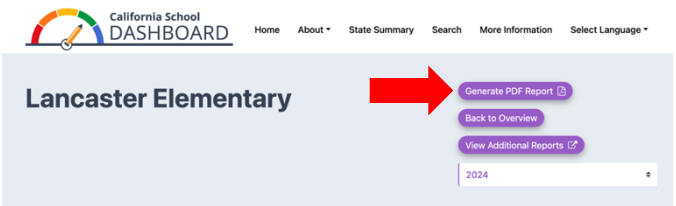


If we were representing a student in Lancaster Elementary School District, we would check to see if our student fell into any of the student groups in the orange or red categories. Let's say, for example, that our client is a Black student with disabilities. In Lancaster, you can see that Black students *and* students with disabilities are in the red area, meaning that our client would be even more likely to experience discipline because they fall into two red groups.

In a hearing, this could be an argument we raise to the panel, saying something like:

> *"Lancaster School District's suspension rates are high across the board. According to the California School Dashboard, Lancaster's suspension rates are in the red, which means they are low performing. However, Black students with disabilities, like STUDENT, are even more likely to be disciplined in a district that already disciplines too frequently and too harshly. This means that because STUDENT is Black and has disabilities, they are more likely to be disciplined than a white student without disabilities for the same behavior, which is discrimination."*

You can even print out a district's Dashboard data and bring it with you to the hearing to show the panel the data you are referencing. The Dashboard allows you to download its data as a PDF, as the picture below shows.



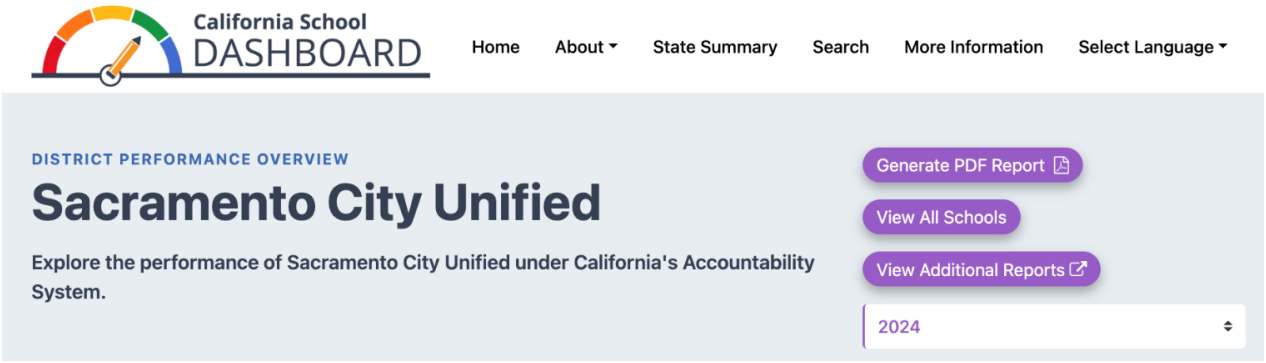
Chapter 1 Toolkit

Chapter 1 Glossary

California Department of Education	The state agency that oversees all public schools in California, also known as "CDE."
California School Dashboard	A website maintained by the California Department of Education that is designed to provide the community with information on school and district progress by compiling and analyzing performance data.
County Office of Education	A public education agency that supports and oversees school districts within a particular county at a level below the California Department of Education.
Demographic Data	Data that reports specific characteristics within a population, such as race, national origin, ethnicity, gender, socioeconomic status, and disability.
Disparities	An unfair difference in the level or treatment of an individual or group, especially on the basis of their identity or circumstances.
Disproportionate	When a group experiences something that happens at too large or too small a rate than what is proportionate to their population size. For example, if Group A is 50% of the general population, they should get about 50% of the suspensions. If Group A gets 70% of the suspensions, their suspensions are disproportionate.
Expulsion	Form of discipline where a student is not allowed to return back to a comprehensive campus in their school district for up to one calendar year.
Suspension Rate	A rate that is calculated by dividing the total number students suspended by the total population and multiplying by 100. For example, if a group of 20 students gets 10 suspensions, their suspension rate is 10 divided by 20 (equaling .50) and multiplied by 100, which would give you a rate 50%. Practically speaking, this would mean that half of the group is suspended.

Supported Practice

Go to the California School Dashboard[8] and answer the questions below. The questions will be about the Dashboard data for "Sacramento City Unified" for the year 2024. Search that district from the Dashboard homepage. You will know you have found the correct school district when the top of your screen looks like the photo.



1. How many students are enrolled in Sacramento City Unified? _____

2. What percentage of the student population are categorized as:
   Socioeconomically Disadvantaged? _____
   English Learners? _____
   Foster Youth? _____

3. What color level does the district have for each of the following areas?
   Chronic Absenteeism _____
   Suspension Rate _____
   English Learner Progress _____
   Graduation Rate _____
   College/Career _____
   English Language Arts _____
   Math _____

4. View more details for "Suspension Rate." What is the overall suspension rate for this District? _____
5. What is the overall suspension rate for the State? _____
6. Which student groups does the district suspend at the highest rates? How do you know?
   _____
   _____
7. Which student groups does the district suspend at the lowest rates? How do you know?

[8] https://www.caschooldashboard.org/.

_____

_____

8. What is the suspension rate for African American students in the district? _____

9. What is the suspension rate for African American students in the state? _____

10. What is the suspension rate for students with disabilities in the district? _____

11. What is the suspension rate for students with disabilities in the state? _____

12. What arguments could you make using this data at an expulsion hearing for this district?

_____

_____

_____

_____

_____

_____

Independent Practice

*Go to the California School Dashboard[9] and answer the questions below. The questions will be about the Dashboard data for **the school district you are working in** for the year 2024. Search that district from the Dashboard homepage.*

1. How many students are enrolled in your school district? _____

2. What percentage of the student population are categorized as:
   Socioeconomically Disadvantaged? _____
   English Learners? _____
   Foster Youth? _____

3. What color level does the district have for each of the following areas?
   Chronic Absenteeism _____
   Suspension Rate _____
   English Learner Progress _____
   Graduation Rate _____
   College/Career _____
   English Language Arts _____
   Math _____

4. View more details for "Suspension Rate." What is the overall suspension rate for this District? _____
5. What is the overall suspension rate for the State? _____
6. Which student groups does the district suspend at the highest rates? How do you know?
   _____
   _____

7. Which student groups does the district suspend at the lowest rates? How do you know?
   _____
   _____

8. What is the suspension rate for African American students in the district? _____

9. What is the suspension rate for African American students in the state? _____

10. What is the suspension rate for students with disabilities in the district? _____

[9] https://www.caschooldashboard.org/.

11. What is the suspension rate for students with disabilities in the state? _____

12. What arguments could you make using this data at an expulsion hearing for this district?

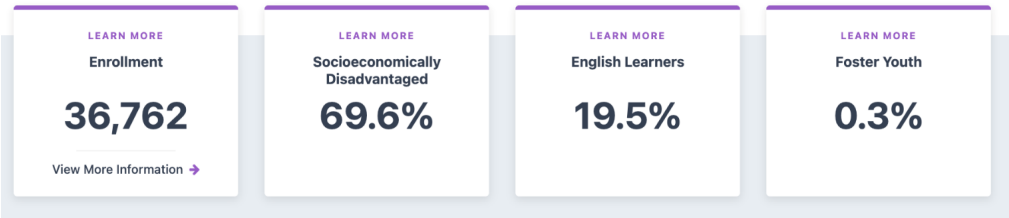
_____
_____
_____
_____
_____
_____

Answer Key

Supported Practice

1. How many students are enrolled in Sacramento City Unified? 36,762

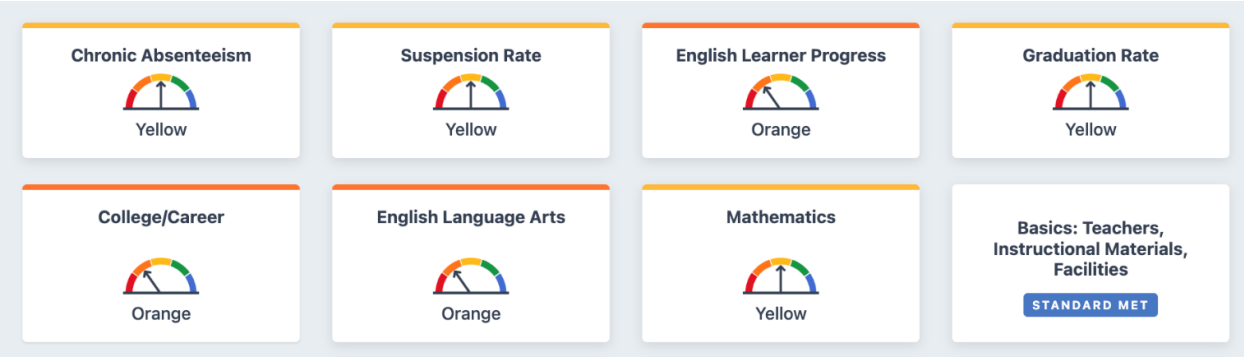
The answers for questions 1 and 2 can be found on Sacramento City Unified's main Dashboard page under the heading "Student Population."



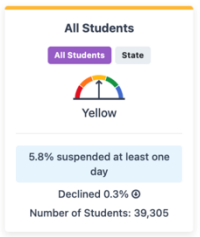
2. What percentage of the student population are categorized as:
   - Socioeconomically Disadvantaged? 69.6%
   - English Learners? 19.5%
   - Foster Youth? 0.3%

3. What color level does the district have for each of the following areas?
   - Chronic Absenteeism — Yellow
   - Suspension Rate — Yellow
   - English Learner Progress — Orange
   - Graduation Rate — Yellow
   - College/Career — Orange
   - English Language Arts — Orange
   - Math — Yellow

The answers for question 3 can be found on Sacramento City Unified's main Dashboard page at the top of the site.

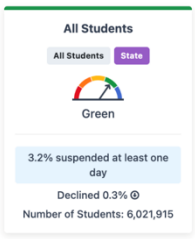


4. View more details for "Suspension Rate." What is the overall suspension rate for this District? 5.8%

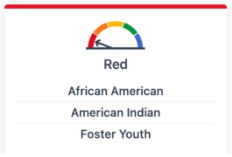


The answers for questions 4 and 5 can be found on Sacramento City Unified's Dashboard page for "Suspension Rate" at the top right of the site.

5. What is the overall suspension rate for the State? 3.2%

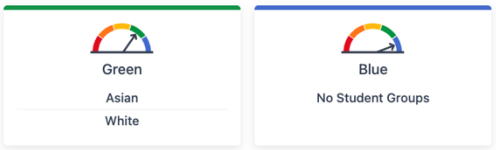


6. Which student groups does the district suspend at the highest rates? How do you know?
   The three groups that perform in the red for suspension rate are African American students, American Indian students, and foster youth. We know they are performing the worst because red is the color that indicates the highest suspension rates.



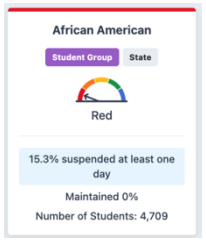
The answers for questions 6 and 7 can be found under the heading "Student Group Details" on the Suspension Rate page.

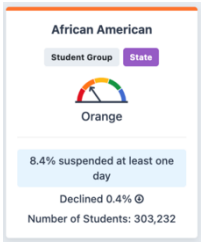
7. Which student groups does the district suspend at the lowest rates? How do you know?
   There are no students that perform in the blue for suspension rate. Blue is the category for the lowest suspension rates. White and Asian students are in the green category, which is the second lowest suspension rates on the dashboard.



8. What is the suspension rate for African American students in the district? 15.3%

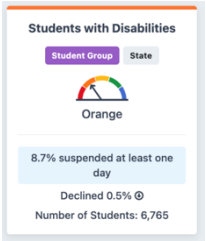
The answers for questions 8, 9, 10, and 11 can be found under the heading "Explore Groups by Performance Level" and by clicking on the color performance level under this heading.

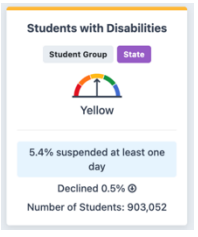




9. What is the suspension rate for African American students in the state? 8.4%

10. What is the suspension rate for students with disabilities in the district? 8.7%



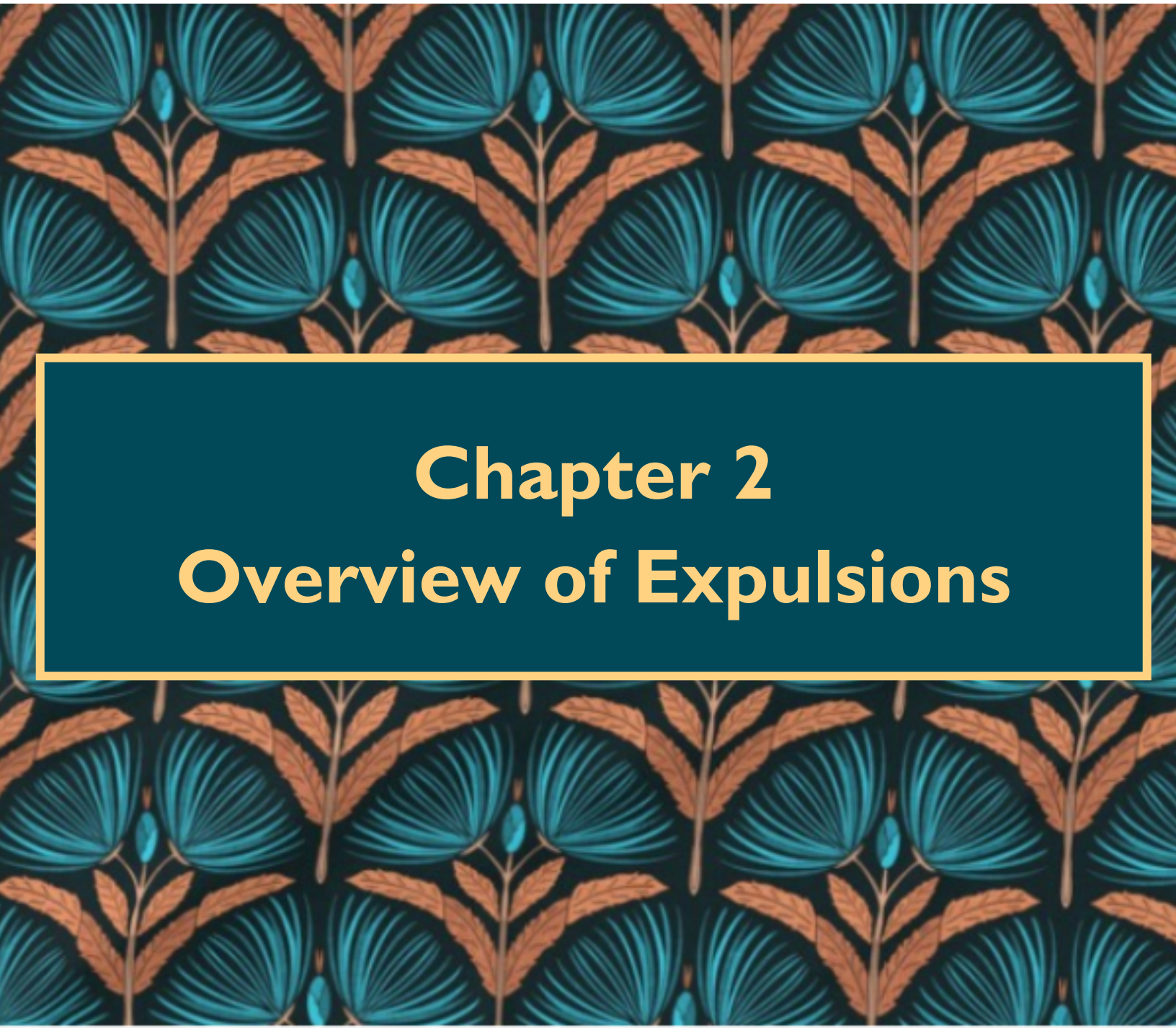


11. What is the suspension rate for students with disabilities in the state? 5.4%
12. What arguments could you make using this data at an expulsion hearing for this district?

If your client is Black, Native American, in foster care, or a student with disabilities, you can explain to the panel that the District has very high rates of suspension for these groups. The rates are higher than the District's overall rates and higher than rates in the State for these same groups. This shows that the District is suspending these students unnecessarily and that they could use other means of correction to address incidents for these students and for your client specifically.

Independent Practice

Answers will vary.



Chapter 2
Overview of Expulsions

Chapter 2 Roadmap

In this chapter, you will learn about the legal protections a student has when a school is trying to recommend them for expulsion, and how and when to rely on those protections throughout your advocacy. You will practice keeping your case organized and staying mindful of the numerous dates and deadlines in the expulsion process.

Study Guide

- What is an expulsion?
- What are the stages of an expulsion case?
- What is the timeline for an expulsion case?
- What are the possible outcomes in an expulsion case?
- What rights do parents and students have in an expulsion case?

Toolkit Materials

- Chapter 2 Glossary
- Expulsion Timeline One-Pager

Supported Practice

- *SP Activity A – Counting schooldays v. calendar days*
- *SP Activity B – Use the Expulsion Timeline One-Pager to identify case deadlines for a hypothetical incident date*

Independent Practice

- *Spot timeline violations in a hypothetical expulsion case*

Study Guide

What is an expulsion?

An expulsion is a type of school discipline that removes a student from the school they are attending and prevents them from attending any **comprehensive campus** in the school district. It is the most severe disciplinary action a school district can take. For that reason, the law requires expulsions to be reserved for serious behaviors outlined in the **California Education Code** or repeated violations that significantly disrupt the educational environment.

The length of the expulsion depends on which school rule the student violated. The shortest period for an expulsion is the rest of the semester the expulsion starts in, plus the semester after that. The longest period for an expulsion is one calendar year. After that period ends, the student must apply for "readmission" to the school district. If the school district grants readmission, the expulsion is over. If the school district denies readmission, the expulsion can be extended.

Because the consequences for an expulsion are severe, the law provides extensive rules, or procedures, that districts must follow and protections districts must provide to students recommended for expulsion and their families. Detailed information on these procedures and protections will be provided throughout this manual.

What are the stages of an expulsion case?

Each expulsion case will include the following stages:

- Suspension
- Extension of suspension
- Manifestation Determination Review (for students with disabilities only)
- Expulsion hearing
- Expulsion appeal
- Readmission hearing

More information on each of these stages will be provided in later chapters.

What is the timeline for an expulsion case?

School expulsions are legal proceedings with defined timelines. A student recommended for expulsion is legally entitled to a hearing, which must be held within 30 **schooldays** of the recommendation, and a final decision must be issued no more than 10 schooldays after the hearing. Violating this timeline can result in a district losing the ability to expel the student, because the law wants to ensure that a student is not prevented from attending school indefinitely while waiting for a hearing and decision.

School districts can only extend this 30 schoolday timeline if the student sends a written request to postpone the hearing by up to an additional 30 **calendar days**. The law guarantees students one postponement; additional postponement requests can be granted, but only at the discretion of the **school board**.

Since many of the deadlines require you to count schooldays, you will need to look up the school district's calendar online to find out what holidays they are closed for and when their school breaks are. Over the summer, "schooldays" are considered any weekday that is not a holiday.[10] If a deadline in an expulsion case falls on a weekend or holiday, you should assume the deadline is moved forward to the next schoolday after the weekend or holiday.[11]

What are the possible outcomes in an expulsion case?

There are three possible outcomes in an expulsion hearing:

1. No expulsion: the student is immediately allowed to return to their original school or is allowed to transfer to another comprehensive campus in the school district. The student does not have an expulsion on their record.
2. Expulsion: the student is referred to a county school or an alternative school in the school district. The student has an expulsion on their record and must complete a rehabilitation plan.
3. Suspended Expulsion: the student can keep attending school in the school district (sometimes at a different school or program), but they must follow a rehabilitation plan for a certain amount of time (usually one or two semesters). If they break a school rule or do not complete their rehabilitation plan, then they will be expelled without a hearing. If they follow school rules and complete their rehabilitation plan, then their suspended expulsion will be lifted, and they won't have an expulsion on their record.

Students also often resolve their expulsion cases before the hearing by reaching a settlement agreement with the school district. A settlement can include an agreement that the student will not be expelled or that the expulsion will be suspended. The school district may also try to convince the student and family to sign a "stipulated expulsion," which is an agreement stating that the student is expelled without an expulsion hearing.

What rights do parents and students have in an expulsion case?

Parents and students have rights at every stage of the school discipline process. The manual will talk about each of these rights in detail in later chapter. For now, here is an overview of parent and student rights and in which chapter you can find them:

[10] California Education Code Section 48925.
[11] However, for your own filing deadlines, it is safest to file the day *before* the weekend or holiday, though not required.

Description of Right	Chapter
The right to a pre-suspension conference	3
The right to a written suspension notice	3
The right to be suspended or expelled only for violations the Education Code defines	3
The right to an extension of suspension conference within 5 schooldays of the suspension	4
The right to a written notice of extended suspension	4
The right to an expulsion hearing within 30 schooldays of the suspension	5
The right to one 30 calendar day postponement of the expulsion hearing	5
The right to written notice of an expulsion hearing	5
The right to inspect and get copies of all documents the school district will use at the expulsion hearing	5
The right to question all witnesses who testify at the expulsion hearing	5
The right to present evidence and witnesses on the student's behalf during the expulsion hearing	5
The right to a **confidential** expulsion hearing	5
The right to be represented by an **attorney** or **non-attorney adviser** at the expulsion hearing	5
The right to a statement of the specific facts and charges upon which the proposed expulsion is based	5
The right to a Manifestation Determination Review (for students with disabilities only)	6
The right to receive the school board's decision on the expulsion within 10 schooldays of the expulsion hearing	14
The right to appeal the expulsion decision to the county office of education within 30 calendar days	15
The right to an expulsion appeal hearing with the county office of education within 20 schooldays of filing the appeal	15
The right to receive the county's decision on the expulsion appeal within 3 schooldays of the expulsion appeal hearing	15

Chapter 2 Toolkit

Chapter 2 Glossary

Attorney	Section 48918 of the Education Code defines attorney as legal counsel who is admitted to the practice of law in California and is an active member of the State Bar of California. The State Bar is the agency that licenses and regulates attorneys for the state of California.
Calendar Days	Includes all days of the year. When counting calendar days, you would include every day on the calendar, including weekends and holidays.
California Education Code	The collected code of laws that govern all aspects of K-12 and post-secondary education in California public schools.
Comprehensive Campus	A traditional school setting providing public education to students that live within its residential boundaries.
Confidential	Information that is kept secret and not shared with others, especially outside of a specific context or trusted relationship.
Non-attorney Advisor	Section 48918 of the Education Code defines non-attorney advisor as an individual who is not an attorney, but who is familiar with the facts of the case and has been selected by the student to assist at the expulsion hearing.
School Board	A panel of elected or appointed people who provide leadership and oversight for a school district.
Schooldays	A day on which classes are held. It does not include weekends, holidays, or administrative days. In the summer, it includes any non-holiday weekday.

Expulsion Timeline One-Pager

How to use the Expulsion Timeline:

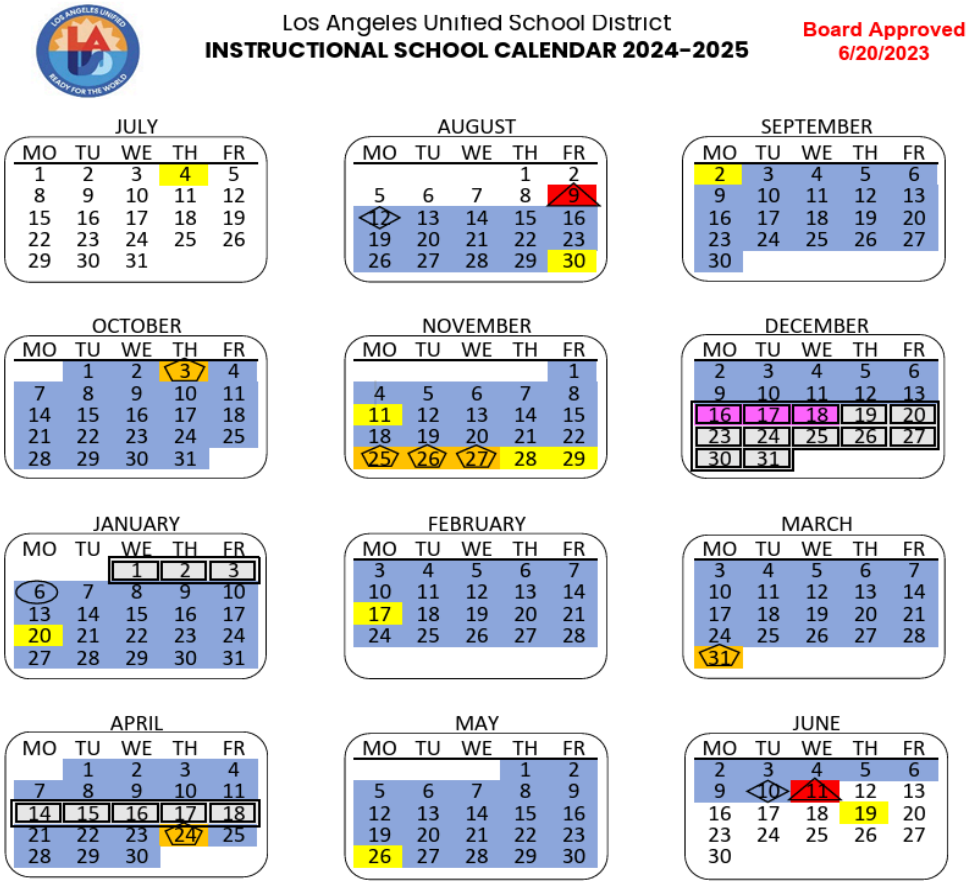
Starting with the date your incident takes place, calculate deadlines for the applicable upcoming events in your expulsion process. You will likely need to look up your school district's academic calendar to make sure you know which days are schooldays.

Stage	Event	How to Calculate	Deadline
Suspension	Discipline Incident	*N/A*	
	District holds pre-suspension conference	*= day of discipline incident*	
	District provides written suspension notice	*= day of discipline incident*	
Extension of Suspension	District holds extension of suspension conference	*= date of suspension + 5 schooldays*	
	District provides written notice of extended suspension	*= date of suspension + 5 schooldays*	
MDR	District calls Manifestation Determination Review (for students with disabilities)	*= date of suspension + 10 schooldays*	
Expulsion Hearing	District provides expulsion hearing notice	*= date of expulsion hearing – 10 calendar days*	
	District holds expulsion hearing ***(calculate this BEFORE the hearing notice date)***	*= date of suspension + 30 schooldays*	
	Expulsion hearing panel provides Board with recommendation to expel or not expel	*= date of expulsion hearing + 3 schooldays*	
	Board votes whether to expel or not expel	*= date of expulsion hearing + 10 schooldays*	
Expulsion Appeal	Student files expulsion appeal with the county office of education	*= date of Board's decision to expel + 30 calendar days*	
	Student requests a copy of the expulsion hearing record from the school district	*= same day appeal is filed*	
	District provides expulsion hearing record	*= date student files appeal + 10 schooldays*	
	Student provides the expulsion hearing record to the County Office of Education	*= same day the district provides the record*	
	County office of education holds expulsion appeal hearing	*= date student files appeal + 20 schooldays*	
	Expulsion appeal panel provides county board with recommendation to confirm or overturn expulsion	*= date of appeal hearing + 3 schooldays*	
	County board of education provides decision to confirm or overturn expulsion	*= date of appeal hearing + 10 schooldays*	

Supported Practice

Activity A – Counting Schooldays v. Calendar Days

Use the academic calendar below for Los Angeles Unified School District for the 2024-2025 school year. Note: when counting days "between" two dates, you do not count the first date in the date range, but you do count the last day in the date range.



Los Angeles Unified School District
INSTRUCTIONAL SCHOOL CALENDAR 2024-2025

Board Approved 6/20/2023

JULY

MO	TU	WE	TH	FR
1	2	3	4	5
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31		

AUGUST

MO	TU	WE	TH	FR
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

SEPTEMBER

MO	TU	WE	TH	FR
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30				

OCTOBER

MO	TU	WE	TH	FR
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30	31	

NOVEMBER

MO	TU	WE	TH	FR
				1
4	5	6	7	8
11	12	13	14	15
18	19	20	21	22
25	26	27	28	29

DECEMBER

MO	TU	WE	TH	FR
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30	31			

JANUARY

MO	TU	WE	TH	FR
		1	2	3
6	7	8	9	10
13	14	15	16	17
20	21	22	23	24
27	28	29	30	31

FEBRUARY

MO	TU	WE	TH	FR
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28

MARCH

MO	TU	WE	TH	FR
3	4	5	6	7
10	11	12	13	14
17	18	19	20	21
24	25	26	27	28
31				

APRIL

MO	TU	WE	TH	FR
	1	2	3	4
7	8	9	10	11
14	15	16	17	18
21	22	23	24	25
28	29	30		

MAY

MO	TU	WE	TH	FR
			1	2
5	6	7	8	9
12	13	14	15	16
19	20	21	22	23
26	27	28	29	30

JUNE

MO	TU	WE	TH	FR
2	3	4	5	6
9	10	11	12	13
16	17	18	19	20
23	24	25	26	27
30				

07/04/24	Independence Day	01/20/25	Dr. Martin L. King Jr. Birthday
08/12/24	First Day of Instruction	02/17/25	Presidents' Day
08/30/24	Admission Day	03/31/25	Cesar E. Chavez Birthday
09/02/24	Labor Day	04/14 - 04/18/25	Spring Break
11/11/24	Veterans Day	04/24/25	Armenian Genocide Remembrance Day
11/28 - 11/29/24	Thanksgiving Holiday	05/26/25	Memorial Day
12/16/24 - 12/18/24	Optional Winter Recess Academy	06/10/25	Last Day of Instruction
12/16/24 - 01/03/25	Winter Break	06/19/25	Juneteenth Holiday
01/06/25	Second Semester Begins		

LEGEND:

- First Day/Last Day of Instruction
- Legal/Local Holidays
- Optional Winter Recess Academy
- School Recess
- Unassigned Day (no school)
- Optional Employee Preparation Day
- Second Semester Begins
- Instructional Days

Instructional Days	
Fall Semester	81
Spring Semester	102
Total	183

1. What is the first day of school year? _____
2. What is the last day of the school year? _____
3. What is the first day of the second semester? _____
4. How many schooldays are in the month of December? _____
5. How many calendar days are in December? _____
6. How many schooldays are between February 10 and February 18? _____
7. How many calendar days are between February 10 and February 18? _____
8. How many schooldays are there between October 2 and December 4? _____
9. How many calendar days are there between October 2 and December 4? _____
10. How many schooldays are there between June 16 and June 20? _____

Activity B – Using the Expulsion Timeline One-Pager

*A student with an IEP was suspended on Wednesday**, January 15, 2025**, for an incident that took place that day. School was closed on **January 20, 2025**, for MLK. Day, on **February 17, 2025**, for President's Day, on **March 31, 2025**, for Cesar Chavez Day, and on **May 26, 2025**, for Memorial Day. The district closed for spring break from **April 14-18, 2025**, and the last day of the 2024-2025 school year was **June 10, 2025**.*

*You can assume the school district will schedule the expulsion hearing on the very last day they are allowed to do so. You can also assume that the expulsion hearing panel, school board, expulsion appeal panel, and County Board will use the maximum time allowed to make their recommendation or issue their decision. If a filing deadline falls on a weekend/holiday, assume that you will file the day before the weekend/holiday. **Fill out the Expulsion Timeline based on these facts.***

Stage	Event	How to Calculate	Deadline
Suspension	Discipline Incident	*N/A*	
	District holds pre-suspension conference	*= day of discipline incident*	
	District provides written suspension notice	*= day of discipline incident*	
Extension of Suspension	District holds extension of suspension conference	*= date of suspension + 5 schooldays*	
	District provides written notice of extended suspension	*= date of suspension + 5 schooldays*	
MDR	District calls Manifestation Determination Review (for students with disabilities)	*= date of suspension + 10 schooldays*	
Expulsion Hearing	District provides expulsion hearing notice	*= date of expulsion hearing – 10 calendar days*	
	District holds expulsion hearing ***(calculate this BEFORE the hearing notice date)***	*= date of suspension + 30 schooldays*	
	Expulsion hearing panel provides Board with recommendation to expel or not expel	*= date of expulsion hearing + 3 schooldays*	
	Board votes on whether to expel or not expel	*= date of expulsion hearing + 10 schooldays*	
Expulsion Appeal	Student files expulsion appeal with the county office of education	*= date of Board's decision to expel + 30 calendar days*	
	Student requests a copy of the expulsion hearing record from the school district	*= same day appeal is filed*	
	District provides expulsion hearing record	*= date student files appeal + 10 schooldays*	
	Student provides the expulsion hearing record to the county office of education	*= same day the district provides the record*	
	County office of education holds expulsion appeal hearing	*= date student files appeal + 20 schooldays*	
	Expulsion appeal panel provides county board with recommendation to confirm or overturn expulsion	*= date of appeal hearing + 3 schooldays*	
	County board of education provides decision to confirm or overturn expulsion	*= date of appeal hearing + 10 schooldays*	

Independent Practice

*Determine if the district **MET** or **DID NOT MEET** the expulsion deadlines for a student with an IEP who was suspended on Tuesday, **October 1, 2024**, for an incident that took place that same day. The student has an IEP. Use the LAUSD calendar you reviewed in the Supported Practice to calculate schooldays. **Explain your answer for each date.***

Event	Date Held	MET	DID NOT MEET
Pre-suspension conference	October 1, 2024		
	Why:		
Extension of suspension conference	October 10, 2024		
	Why:		
Manifestation Determination Review	October 16, 2024		
	Why:		
Expulsion hearing notice	November 12, 2024		
	Why:		
Hearing	November 18, 2024		
	Why:		
Panel recommendation	November 22, 2024		
	Why:		
Board decision	December 9, 2024		
	Why:		

Answer Key

Supported Practice Activity A

1. What is the first day of school year?
   August 12.

2. What is the last day of the school year?
   June 10.

3. What is the first day of the second semester?
   January 6.

4. How many schooldays are in the month of December?
   10 schooldays. December 2, 3, 4, 5, 6, 9, 10, 11, 12, and 13 are schooldays. The weekends would not be counted along with the Winter Break holiday from December 16-January 3.

5. How many calendar days are in December?
   31 calendar days. All days in a month are counted, including weekends and holidays.

6. How many schooldays are between February 10 and February 18?
   5 schooldays. When counting "between" dates, you do not count February 10, and you do count February 18. February 17 is a holiday and is not counted as a schoolday.

7. How many calendar days are between February 10 and February 18?
   8 calendar days. When counting "between" dates, you do not count February 10, and you do count February 18. For calendar days, you count weekends and holidays, so you would include February 11, 12, 13, 14, 15, 16, 17, and 18.

8. How many schooldays are there between October 2 and December 4?
   38 schooldays. When counting "between" dates, you do not count October 2, and you do count December 4. In addition to weekends, you would not count the following days:
   - October 3 (LAUSD holiday)
   - November 11 (Veterans Day)
   - November 25-29 (Thanksgiving Break)

9. How many calendar days are there between October 2 and December 4?

63 calendar days. When counting "between" dates, you do not count October 2, and you do count December 4.

10. How many schooldays are there between June 16 and June 20?
    3 schooldays. When counting "between" dates, you do not count June 16, and you do count June 20. During the summer, weekdays are counted as schooldays except for holidays. Juneteenth is a holiday.

Supported Practice Activity B

Stage	Event	How to Calculate	Deadline
Suspension	Discipline Incident	*N/A*	*January 15, 2025*
	District holds pre-suspension conference	*= day of discipline incident*	*January 15, 2025*
	District provides written suspension notice	*= day of discipline incident*	*January 15, 2025*
Extension of Suspension	District holds extension of suspension conference	*= date of suspension + 5 schooldays* *= Jan. 15 + 5 schooldays (Jan. 16, 17, skip 20 because of MLK day, 21, 22, 23)*	*January 23, 2025*
	District provides written notice of extended suspension	*= date of suspension + 5 schooldays* *= Jan. 15 + 5 schooldays (Jan. 16, 17, skip 20 because of MLK day, 21, 22, 23)*	*January 23, 2025*
MDR	District calls Manifestation Determination Review (for students with disabilities)	*= date of suspension + 10 schooldays* *= Jan. 15 + 10 schooldays (Jan. 16, 17, skip 20 because of MLK day, 21, 22, 23, 24, 27, 28, 29, 30)*	*January 30, 2025*
Expulsion Hearing	District provides expulsion hearing notice	*= date of expulsion hearing – 10 calendar days* *= Feb. 28 – 10 calendar days*	*February 18, 2025*
	District holds expulsion hearing ***(calculate this BEFORE the hearing notice date)***	*= date of suspension + 30 schooldays* *= Jan. 15 + 30 school days (January 20 and February 17 are not schooldays)*	*February 28, 2025*
	Expulsion hearing panel provides Board with recommendation to expel or not expel	*= date of expulsion hearing + 3 schooldays* *= Feb. 28 + 3 schooldays (Mar. 3, 4, 5)*	*March 5, 2025*
	Board votes on whether to expel or not expel	*= date of expulsion hearing + 10 schooldays* *= Feb. 28 + 10 schooldays (Mar. 3, 4, 5, 6, 7, 10, 11, 12, 13, 14)*	*March 14, 2025*
Expulsion Appeal	Student files expulsion appeal with the county office of education	*= date of Board's decision to expel + 30 calendar days* *= Mar. 14 + 30 calendar days* *= Apr. 13 → deadline is Apr.*	*April 11, 2025*

		14 (Monday) because Apr. 13 is a Sunday. But to be safe, you should file by Apr. 11 (Friday)	
	Student requests a copy of the expulsion hearing record from the school district	*= same day appeal is filed*	*April 11, 2025*
	District provides expulsion hearing record	*= date student files appeal + 10 schooldays = Apr. 11 + 10 schooldays (skip Apr. 14-18 because of spring break, Apr. 21, 22, 23, 24, 25, 28, 29, 30, May 1, 2)*	*May 2, 2025*
	Student provides the expulsion hearing record to the county office of education	*= same day the district provides the record*	*May 2, 2025*
	County office of education holds expulsion appeal hearing	*= date student files appeal + 20 schooldays = Apr. 11 + 20 schooldays (skip Apr. 14-18 because of spring break, Apr. 21, 22, 23, 24, 25, 28, 29, 30, May 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16)*	*May 16, 2025*
	Expulsion appeal panel provides county board with recommendation to confirm or overturn expulsion	*= date of appeal hearing + 3 schooldays = May 16 + 3 schooldays (May 19, 20, 21)*	*May 21, 2025*
	County board provides decision to confirm or overturn expulsion	*= date of appeal hearing + 10 schooldays = May 16 + 10 schooldays (May 19, 20, 21, 22, 23, skip May 26 because of Memorial Day, 27, 28, 29, 30, June 2)*	*June 2, 2025*

Independent Practice

Incident Date: October 1, 2024

Event	Date Held	MET	DID NOT MEET
Pre-suspension conference	October 1, 2024	✓	
	Why: The pre-suspension conference was held the same day as the incident leading to the suspension.		
Extension of suspension conference	October 10, 2024		X
	Why: The pre-suspension conference must be held within 5 schooldays of the initial suspension. This is on or before October 9, since October 3 is a holiday. October 10 is one day late.		
Manifestation Determination Review	October 16, 2024	✓	
	Why: An MDR must be held within 10 schooldays of the suspension. This would be on or before October 16, 2025, since October 3 is a holiday.		
Expulsion hearing notice	November 12, 2024		X
	Why: The expulsion hearing notice is due 10 calendar days before the hearing. The hearing should have been held on November 14, so if the hearing had been scheduled on time, the notice would be due November 4. But since the hearing was actually scheduled for November 18, the notice would have been due 10 calendar days before that date, which is November 8, 2025. November 12 is 4 calendar days late.		
Hearing	November 18, 2024		X
	Why: The expulsion hearing must be held within 30 schooldays of the incident. This makes the deadline November 14, since October 3 and November 11 are holidays. November 18 is two schooldays late if the student has not requested a postponement.		
Panel recommendation	November 22, 2024		X
	Why: The panel must provide its recommendation to the board no more than 3 schooldays after the hearing, making the deadline here November 21. November 22 is one day late.		
Board decision	December 9, 2024	✓	
	Why: The Board's decision is due 10 calendar days after the hearing, which is December 9, 2024, given Thanksgiving break.		

Chapter 3
Suspension Advocacy

Chapter 3 Roadmap

In this chapter, you will learn about the legal protections a student has when a school is trying to suspend them for breaking a school rule and how and when to assert those legal protections. You will practice how to interpret the ***elements*** *of the California Education Code's suspendable violations and how to read a suspension notice to determine if it complies with the law.*

Study Guide

- What is a suspension and how can you tell when a suspension breaks the law?
  - What are the **substantive requirements** for a **suspension**?
    - Did the behavior violate the Education Code?
    - Did the school try **other means of correction**?
  - What are the **procedural requirements** for a suspension?
    - Did the school investigate before deciding to suspend my student?
    - Did the district give the student an opportunity to attend a **pre-suspension conference**?
    - Did the principal or an administrator representing the principal hold a pre-suspension conference ?
    - Did the school give the student a chance to tell their side of the story?
    - Did the school show the student evidence of the violation?
    - Did the school explain why they were suspending the student?
    - Did the school provide the **guardian** with **written notice** that follows the law?

Toolkit Materials

- Chapter 3 Glossary
- Elements of California Education Code Section 48900 Violations
- Suspension Compliance Tracker

Supported Practice

- *Reading and analyzing a suspension notice*

Independent Practice

- *Reviewing a suspension notice to argue that it breaks the law*

Study Guide

What is a suspension?

A suspension is a type of school discipline that temporarily removes a student from school for part of the day, all day, or up to five days in a row as a form of punishment.[12]

There are different types of suspensions: three of them might be legal, one never is.

- Might be legal:
  - **Out-of-school suspension**
  - **In-school suspension**
  - **Teacher suspension**

- Never legal:
  - **Informal or "off the books" suspension**

How can you tell when a suspension breaks the law?

The Education Code recognizes that excluding a student from class, even for a short amount of time, is a serious consequence. Therefore, the law creates several protections that schools must follow before they're allowed to suspend a student. These protections ensure that schools do not remove students from school and class unnecessarily and without first trying to address the behavior in other ways. These protections are both substantive and procedural, and they are explained in detail below.

What are the substantive requirements for a suspension?

There are two substantive requirements that a school must show they have met before they can suspend a student: (1) they must prove that the student's behavior **violated the Education Code** and (2) they must show that they tried **other means of correction to address the behavior** before suspending the student.

Did the behavior violate the Education Code?

The California Education Code allows a school to suspend a student for only specific types of behaviors. **Schools cannot suspend a student for any reason they want**—it must be a behavior the Education Code lists in Sections 48900, 48900.2, 48900.3, 48900.4, 48900.7.[13] A suspension is illegal if a school suspends a student for behavior that is not on this list.

[12] California Education Code Section 48911.
[13] See Chapter 5 for a list of additional violations listed in Education Code Section 48915 for which a student can ***only*** be expelled, not suspended.

Education Code Section	Subsection	Description
48900	a(1)	Caused, attempted to cause, or threatened to cause physical injury to another person
	a(2)	Willfully used of force or violence on another person, except in self-defense
	b	Possessed, sold, or gave someone a gun, knife, explosive, or another dangerous object, except if the student has written permission from school staff and administration
	c(1)	Possessed, used, sold, gave someone, or was under the influence of an illegal drug, alcohol, or anything else that could cause intoxication **Exception**: students who voluntarily tell school staff about substance abuse to get help cannot be suspended for sharing this information
	d	Sold an illegal drug, alcohol, or anything else that could cause intoxication
	e	Robbed or extorted someone, or threatened to rob or extort someone
	f	Caused or tried to cause damage to school or private property
	g	Stole or tried to steal school or private property
	h(1)	Possessed or used tobacco or tobacco products **Exception**: students who voluntarily tell school staff about tobacco use to get help cannot be suspended for sharing this information
	i	Committed an obscene act or repeatedly used profanity or vulgarity
	j	Possessed or sold drug paraphernalia
	l	Knowingly received stolen school or private property
	m	Possessed an imitation firearm
	n	Committed or tried to commit sexual assault or battery
	o	Harassed, threatened, or intimidated a student who is a witness in a school discipline hearing
	p	Possessed or sold SOMA (a type of prescription drug)
	q	Hazed or tried to haze someone
	r	Bullying
	t	Helped or supported a student injuring another student **Note:** You can be suspended for this, but not expelled
48900.2		Sexually harassed another person
48900.3		Committed hate violence
48900.4		Harassed, threatened, or intimidated someone in a way that created a **hostile educational environment**
48900.7		Made "terroristic threats"

Did the school try other means of correction?

The first time a student violates the Education Code, schools must usually show they have tried an alternative to suspension, such as warnings, parent conferences, or detention.[14] But schools can suspend a student for their first violation if the administrator decides the student (1) committed a **zero tolerance violation,** (2) the student committed a **medium discretion violation**, or (3) the student's presence causes a "danger" to others.[15]

In any other case, the school can only suspend a student "when other means of correction fail to bring about proper conduct."[16] This means the school has already tried using other means of correction to help the student change their behavior, but these interventions repeatedly haven't worked. Other means of correction can include:

- A conference with the student and their parent;
- Referring the student to the counselor, psychologist, or social worker;
- Referring the student for a **psychoeducational assessment** to determine whether an **Individualized Education Program ("IEP")** or **Section 504 plan** is necessary;
- Participating in **behavior intervention plan**; or
- Enrolling the student in an after-school community-based program.

What are the procedural requirements for a suspension?

Before suspending a student, schools must take certain steps to make sure the student knows what the school is accusing them of and is able to defend themselves. These steps are called procedural requirements. Schools must follow these procedural requirements in every case, whether or not the student broke a school rule. Procedural requirements are supposed to make the suspension process fairer for students. These procedural requirements include: (1) investigation of the incident; (2) a suspension conference that meets certain requirements; and (3) written notice of the suspension.

Did the school investigate before deciding to suspend my student?

Before suspending a student, administrators must investigate the incident. To investigate, the administrator must interview witnesses, including the accused student. The administrator also must review text messages, emails, notes, or other evidence related to the incident. Lastly, the administrator must inspect objects that relate to the incident. Often, the investigation will include—or entirely consist of—asking the accused student to write a statement. While we advise students to never write a statement without a parent or advocate present, administrators often pressure students into writing one on their own, even if they do not understand what they are writing or the consequences for providing the information.

[14] Cal. Educ. Code Section 48900.5.
[15] Cal. Educ. Code Sections 48900.5(a); 48915(c).
[16] Cal. Educ. Code Sections 48900.5(a); 48915(c).

Did the school give the student an opportunity to attend a pre-suspension conference?

Administrators must also hold a pre-suspension conference before suspending a student. The pre-suspension conference is a meeting between the administrator and the accused student. The purpose of this meeting is to talk about the allegations against the student and give the student a chance to defend themselves.

Did the principal or a designee hold a pre-suspension conference?

The only school staff who can lead a suspension conference are the principal or another administrator who is representing the principal as the "designee." This conference must take place *before* the school decides to suspend the student.

Did the school give the student a chance to tell their side of the story?

The administrator leading the conference must give the student a chance to tell their side of the story, either out loud or in writing. However, the student is not required to tell their side of the story if they don't want to. If the school, a staff member, or anyone else called the police about the incident, the student should not tell their side of the story during the suspension conference because the police can use their statements against them. If the student isn't sure about whether someone called the police, it is safer not to tell their side of the story.

Did the school show the student evidence of the violation?

During the conference, the administrator must explain to the student all the evidence the school has against them. The administrator can redact private information from other students—for example, blocking out another student's name on their witness statement. But they still must show the student all the parts of the evidence that are not private.

Did the school explain why they were suspending the student?

The administrator must tell the student why they are being suspended. This includes telling the student the exact behavior they are being suspended for and which school rules they broke. When the administrator is describing the behavior that the student is being suspended for, they should explain who was involved, what happened, where it happened, and when it happened.

Did the school provide the guardian with written notice that follows the law?

After the suspension conference, the administrator must call the student's guardian and tell them the student is being suspended. The administrator also must send the guardian written notice of the suspension.[17]

[17] If a student is in foster care or under the jurisdiction of a juvenile court, the school district also must notify their education rights holder, their minor's attorney, and their social worker. If the student is also a member of a Native American tribe, the school district must notify their tribal social worker as well.

Chapter 3 Toolkit

Chapter 3 Glossary

Behavior Intervention Plan ("BIP")	A plan or program to help students struggling with challenging behaviors at school without resorting to discipline. These programs can help by providing services, instruction, conflict resolution, or safety planning. Popular options include Restorative Justice, Positive Behavioral Interventions and Supports ("PBIS"), and Social-Emotional Learning ("SEL").
Elements	Refers to the essential components or requirements that school districts must prove to establish a violation of the Education Code.
Guardian	An adult appointed by a court to care for a child by making decisions about their education, medical care, and personal care.
Hostile Educational Environment	Occurs when a student or students are subjected to harassment or discrimination on the basis of their identities, interfering with their ability to learn and participate in educational programs or activities.
Individualized Education Program ("IEP")	A written plan under the Individuals with Disabilities Education Act ("IDEA") that outlines the specialized instruction and services that a student with a disability needs to access the curriculum in school.
Informal, "Off the Books" Suspension	An illegal suspension that occurs when schools remove students from school without officially documenting or counting the removal as a formal suspension, where procedural and substantive protections would apply.
In-School Suspension	A suspension that is served on campus during school hours in a supervised suspension classroom or other area designated by school administration.
Medium Discretionary Violation	Refers to an Education Code violation that allows schools to exercise some flexibility in whether to suspend or expel students for behaviors that are unsafe or disrupt the learning environment. Here, a principal does not have to recommend suspension or expulsion if they find that the punishment is inappropriate or other means of correction would address the behavior.
Other Means of Correction	Interventions schools use to address student misbehavior before considering suspension or expulsion.
Out-of-School Suspension	A suspension where the school removes a student from the school campus for all or part of the day.
Pre-suspension Conference	A conference that the Education Code requires before schools suspend a student, unless an emergency situation exists. Here, the school must give the student information about the reasons for the suspension, the evidence against them, and an opportunity to present their version of events.

Procedural Requirements	Safeguards and legal protections that are designed to ensure that schools treat students fairly under the law before disciplining them. These protections require schools and districts to follow legal processes and timelines, send required notices, and provide documentation to parents and students so they can enforce their rights in the discipline process.
Psycho-Educational Evaluation	A comprehensive special education assessment that evaluates students with identified or suspected disabilities to identify learning needs and what special education and related services are required to support them in school.
Section 504 Plan	A formal, individualized plan developed by schools to provide accommodations and services for students with disabilities eligible under Section 504 of the Rehabilitation Act.
Substantive Requirements	Legal requirements for the content and quality of services and protections under the Education Code. In the school discipline context, substantive requirements refer to the findings schools must make, evidence they must demonstrate, and equal access to information and opportunities they must provide before they can legally discipline a student.
Suspension	A short-term disciplinary removal of a student from school or class.
Teacher Suspension	A suspension where the teacher removes the student from their classroom but not from the school campus
Written Notice	Legal requirement for schools to provide parents and students with information on a disciplinary decision. The notice must include specifics like the duration of the proposed discipline, a description of the incident, Education Codes allegedly violated, and whether the school considered other means of correction.
Zero Tolerance Violation	Refers to specific violations of the Education Code that, if committed by a student, trigger a mandatory recommendation for expulsion. California law requires expulsion recommendations for the following violations: possessing, selling, or holding a firearm; wielding a knife; selling a controlled substance; attempting or committing sexual assault; or possessing an explosive.

Elements of California Education Code Section 48900 Violations

How to use the elements chart:

Step 1: Check the suspension notice to see what education code sections are listed.

Step 2: Find that section or sections on the chart.

Step 3: Go through the list of elements and make sure that the District has proven or can prove each one with evidence.

Education Code Section	Subsection	Elements
48900	a(1)	1. Caused OR tried to cause OR threatened to cause 2. Physical injury 3. To another person
	a(2)	1. Willfully 2. Used force OR violence 3. On another person 4. Not in self-defense
	b	1. Possessed OR sold OR gave someone 2. A gun OR a knife OR an explosive OR another dangerous object 3. Without written permission from school staff and administration
	c(1)	1. Possessed OR used OR sold OR gave someone OR was under the influence of 2. An illegal drug OR alcohol OR anything else that could cause intoxication 3. Student didn't voluntarily tell school staff about substance abuse to get help
	d	1. Offered to sell OR arranged to sell OR negotiated to sell 2. An illegal drug OR alcohol OR anything else that could cause intoxication 3. Sold OR delivered OR gave to someone 4. Liquid OR substance OR material 5. Represented the liquid OR substance OR material as an illegal drug OR alcohol OR anything else that could cause intoxication
	e	1. Robbed someone OR extorted someone OR threatened to rob someone OR threatened to extort someone
	f	1. Caused OR tried to cause damage 2. To school property (includes electronic files and databases) OR private property

	g	1. Stole OR tried to steal 2. School property (includes electronic files and databases) OR private property
	h(1)	1. Possessed OR used 2. Tobacco OR tobacco products OR nicotine products 3. Student was not prescribed the product 4. Student didn't voluntarily tell school staff about tobacco use to get help
	i	1. Committed an obscene act OR repeatedly used profanity OR repeatedly used vulgarity
	j	1. Possessed OR unlawfully offered to sell OR unlawfully arranged to sell OR unlawfully negotiated to sell 2. Drug paraphernalia (defined in Health and Safety Code Section 11014.5)
	l	1. Knowingly received 2. Stolen 3. School property (includes electronic files and databases) OR private property
	m	1. Possessed 2. An imitation firearm (defined in the statute)
	n	1. Committed OR tried to commit 2. Sexual assault (defined in Penal Code Sections 261, 266c, 286, 287, 288, or 289) OR sexual battery (defined in Penal Code Section 243.4)
	o	1. Harassed OR threatened OR intimidated 2. A student 3. Who is a complaining witness OR a witness in a school discipline hearing 4. For the purpose of preventing the pupil from being a witness AND/OR for the purpose of retaliating against that pupil for being a witness
	p	1. Unlawfully offered OR arranged to sell OR negotiated to sell OR sold 2. Soma (a type of prescription drug)
	q	1. Hazed OR tried to haze someone. Hazing means: a. A method of initiation OR a method of pre-initiation b. Into a pupil organization OR into a pupil body c. That is likely to cause seriously bodily injury OR is likely to cause personal degradation OR is likely to cause disgrace resulting in physical or mental harm d. To a former student OR current student OR prospective student

		e. Is not an athletic event AND is not a school-sanctioned event
	r	1. Bullied someone. Bullying means: a. Severe OR pervasive b. Physical act or conduct OR verbal act or conduct OR written communication OR email, text message, or other electronic communication c. Directed toward one or more students d. Has the effect OR can reasonably be predicted to have the effect of at least one of the following: i. Making a reasonable student fear harm to themselves or their property ii. Making a reasonable student experience a substantially harmful effect on their physical or mental health iii. Substantially interfering with a reasonable student's academic performance iv. Substantially interfering with a reasonable student's ability to participate in or benefit from the school's services, activities or privileges
	t	1. Helped another student OR supported another student 2. To injure someone else OR to try to injure someone else **Note:** You can be suspended for this, but not expelled
48900.2		1. Sexually harassed another person. Sexual harassment means: a. Unwelcome sexual advances OR requests for sexual favors OR other verbal conduct of a sexual nature OR other visual conduct of a sexual nature OR physical conduct of a sexual nature b. From or in the educational setting c. Considered by a reasonable student of the same age and gender to be: i. Sufficiently severe OR sufficiently pervasive ii. To have a negative impact on the victim's academic performance OR create an intimidating, hostile, or offensive educational environment 2. Accused student is in grades 4 through 12
48900.3		1. Caused an act of hate violence OR threatened to cause an act of hate violence OR participated in an act of hate violence. Hate violence means: Option 1 a. Uses force OR threat of force b. To willfully injure OR intimidate OR interfere with OR oppress OR threaten c. Another person

	d. In the free enjoyment OR exercise of a legal right e. Because of the person's actual or perceived identity Option 2 a. Knowingly b. Defaces OR damages OR destroys c. The property d. Of another person e. For the purpose of intimidating OR interfering with f. The free enjoyment OR exercise of a legal right g. Because of the person's actual or perceived identity 2. Accused student is in grades 4 through 12
48900.4	1. Intentionally engaged in 2. Harassment OR threats OR intimidation 3. Directed against school staff OR students 4. That is severe OR pervasive 5. To have the actual AND reasonably expected effect of 6. Materially disrupting classwork AND creating substantial disorder AND invading the rights of school staff or students 7. By creating an intimidating educational environment OR by creating a hostile educational environment. 8. Accused student is in grades 4 through 12
48900.7	1. Student made terroristic threats. A terroristic threat means: a. Written statement OR verbal statement that b. Willfully c. Threatens to commit a crime d. That will result in death OR great bodily injury OR property damage in excess of $1,000 e. With the specific intent that the statement is taken as a threat even if there is no intent to actually carrying it out f. Statement must be so clear AND unconditional AND immediate AND specific to communicate to the threatened person that the threat is real g. Causing the person to reasonably be in fear for their safety OR the safety of their immediate family OR the safety of school district property OR personal property 2. Against school staff AND/OR school property.

Suspension Compliance Tracker

How to use the Suspension Compliance Tracker:

1. Determine if the suspension is an in-school/out-of-school suspension OR a teacher suspension and find the corresponding checklist.
2. Review the checklist to make sure that each box can be checked. If you cannot check a box, the suspension is not legal for that reason.

In-School or Out-of-School Suspension

Substantive Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
☐	Refer to the **Elements Chart** to ensure that the violation is listed in Section 48900 of the Education Code.	
☐	Refer to the **Elements Chart** to ensure that the school has demonstrated evidence of all elements of the violation.	
☐	Confirm that the violation took place either (1) at school OR (2) at a school-related activity (for example, a school dance or school football game) OR (3) going directly to or coming directly from school or a school-related activity.	
☐	Confirm that the school has tried other means of correction ♦ *Exception:* School is not required to try other means of correction if: (1) the student violated 48900(a)-(e) OR (2) the student's presence at school causes a "danger."	
☐	Ensure that the school is not suspending the student for willful defiance or disruption. Ensure that the school is not suspending a student in grades K-3 for a violation of Section 48900.2, 48900.3, or 48900.4.	

Procedural Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
☐	Confirm that the school investigated the incident before suspending the student.	
☐	Confirm that the superintendent, principal, or principal's designee made the decision to suspend the student, not another staff member.	

☐	Confirm that the school held a suspension conference before suspending the student. • *Exception:* If the student's behavior creates an "emergency situation," the school can wait two schooldays before holding the conference.	
☐	Confirm that the suspension conference met the following requirements: • Principal or the principal's designee led the suspension conference. • School gave the student an opportunity to tell their side of the story. • School explained the evidence they have against the student.	
☐	Confirm that the school made reasonable efforts to call the parent after suspending the student. • Confirm the school provided interpretation on this call, if needed.	
☐	Confirm that the school sent written notice of the suspension to the parent after suspending the student. • Confirm the school translation of the written notice, if needed	
☐	Confirm the suspension is for no more than five days straight.	
☐	Confirm the student has been suspended for no more than 20 days total that school year (if they haven't transferred schools during the year) or for no more than 30 days total that school year (if they have transferred schools during the year).	

Teacher Suspensions

Substantive Requirements (Teacher Suspension)		
✓	Description of Requirement	Notes
☐	Refer to the **Elements Chart** to ensure that the violation is listed in Section 48900 of the Education Code.	
☐	Refer to the **Elements Chart** to ensure that the school has demonstrated evidence of all elements of the violation.	
☐	Confirm that the violation took place in the teacher's classroom.	
☐	Ensure that the teacher is not suspending the student for willful defiance or disruption.	
☐	Ensure that the teacher is not suspending a student in grades K-3 for a violation of Section 48900.2, 48900.3, or 48900.4.	

Procedural Requirements (Teacher Suspension)		
✓	Description of Requirement	Notes
☐	Confirm the suspension is for no longer than that class day and the following day.	
☐	Confirm the teacher immediately reported the suspension to the principal.	
☐	Confirm the teacher referred the student to the principal.	
☐	Confirm the teacher invited the parent to a parent-teacher conference as soon as possible.	

Supported Practice

Read the suspension notice and answer the questions below.

Neighborhood High School

To the Parent/Guardian of: Pete Katt		**Date:** April 1, 2025
Student ID#: 123456	**Grade:** 10th	**Date/Time/Location of Incident:** 04/01/2025 Lunch, quad
Dates of Suspension: 04/02/2025 **to** 04/04/2025 **# of Days** 3	**Return Date:** 04/07/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☑ **Law Enforcement Notified**		Parent made on April 1, 2025 telephone
Contact with:		
Administrator and Title: Principal Sadie Pitt		**Phone:** (555) 555-1234

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/Attempted to Cause Physical Injury

Brief description of the incident causing suspension:

On April 1, 2025, while eating lunch in the quad, Pete and Student 1 got into a verbal argument that escalated into a physical fight that Pete started. Student witnesses state that they saw Pete hit Student 1 multiple times in the face and body.

Other means of correction provided prior to suspension when indicated:

Pete receives regular counseling as a student with disabilities.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the school ; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

1. Which Education Code Section does the school say the student violated?

   _____

2. What behavior is the school accusing the student of (the notice should identify who, what, where, and when)?

   _____

   _____

3. How many days is the suspension for?

   _____

4. What other means of correction did the school try before suspending the student?

   _____

   _____

5. Who signed the suspension notice? Does this person have the power to suspend the student?

   _____

List the elements of the Education Code Section that's listed in the suspension notice:

1. _____
2. _____
3. _____

Independent Practice

Lenny Pugg is an energetic 3rd grader at Neighborhood Elementary School. He loves to watch Paw Patrol, play outside with his toys, and run around with his older sister and best friend, Lucy. Lenny has an IEP and receives special education services as a student with ADHD-Impulsive type. He is a smart kid who used to make good grades, but he has been struggling with his behavior this year, and his grades have started to decline.

Over the past few months, Lenny and another student, Student 1, have not been getting along. In fact, Student 1 has been bullying Lenny because he sometimes blurts out in class and has trouble sitting still. He calls Lenny mean names in front of other kids, who all laugh at him. Lenny has tried to tell his teacher what has been happening, but the teacher just tells them both to "play nicely." Last week, Student 1 got in front of the entire class when the teacher stepped out of the room and impersonated Lenny to humiliate him. Lenny went home and decided that he would stand up to Student 1 the next time Student 1 was mean to him.

Today after school, at a community program both students attend on the school campus, Student 1threw a ball at Lenny's head and told him that it should not hurt because he is not smart. Unfortunately, the yard duty did not see this happen. The yard duty only turned around when a bunch of students started circling around the two boys to see Lenny yelling at Student 1 while pointing his finger at him. The yard duties heard Lenny say that Student 1 better not bother him again, or Lenny would "get him."

The yard duty broke up the boys. The next day at school, Lenny was sent to the front office to meet with the principal because of what the yard duty reported. When Lenny got to the office, he was asked to write down what happened, but they did not ask him any other questions. Lenny, who struggles to express himself in writing, wrote: *"I do not like [STUDENT 1] because he is mean, makes fun of me, and threw a ball at me. I told him if he does it again, I would get him back."* Lenny's dads later learned that the yard duty, the bully, and a few other students also wrote witness statements, but they were not allowed to see them.

Lenny's dads were then called to the school to "pick up" Lenny because he was being suspended for "fighting." When Lenny's dads got to the school, they saw Lenny sitting in a chair in the front office with his backpack. The front office secretary told Lenny's dads that they needed to take him home now, and the principal would call later to explain.

The principal called them later that night to tell them that Lenny had "fought" another boy at school and threatened him. He said that Lenny would be suspended for two days. They got a letter in the mail two days later with the following notice:

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 1, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 03/31/2025 After school program, playground
Dates of Suspension: 04/02/2025 **to** 04/03/2025 **# of Days** 2	**Return Date:** 04/04/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☐ **Law Enforcement Notified**		Parent made on April 1, 2025 telephone
Contact with:		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/threatened to cause physical injury

Brief description of the incident causing suspension:

Lenny yelled at [Student 1] in front of a large group of students. Lenny threatened [Student 1] by saying he was going to "get him" in the future. [Student 1] reports feeling very afraid to come to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the AVUHSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

1. Use the Suspension Compliance Tracker to determine if Lenny's suspension violated any substantive or procedural requirements.

Substantive Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
☐	Refer to the **Elements Chart** to ensure that the violation is listed in Section 48900 of the Education Code.	
☐	Refer to the **Elements Chart** to ensure that the school has demonstrated evidence of all elements of the violation.	
☐	Confirm that the violation took place either (1) at school OR (2) at a school-related activity (for example, a school dance or school football game) OR (3) going directly to or coming directly from school or a school-related activity.	
☐	Confirm that the school has tried other means of correction ♦ *Exception:* School is not required to try other means of correction if: (1) the student violated 48900(a)-(e) OR (2) the student's presence at school causes a "danger."	
☐	Ensure that the school is not suspending the student for willful defiance or disruption. Ensure that the school is not suspending a student in grades K-3 for a violation of Section 48900.2, 48900.3, or 48900.4.	

Procedural Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
☐	Confirm that the school investigated the incident before suspending the student.	
☐	Confirm that the superintendent, principal, or principal's designee made the decision to suspend the student, not another staff member.	
☐	Confirm that the school held a suspension conference before suspending the student. • *Exception:* If the student's behavior creates an "emergency situation," the school can wait two schooldays before holding the conference.	
☐	Confirm that the suspension conference met the following requirements: • Principal or the principal's designee led the suspension conference.	

	• School gave the student an opportunity to tell their side of the story. • School presented the evidence they have against the student.	
☐	Confirm that the school made reasonable efforts to call the parent after suspending the student. • Confirm the school provided interpretation on this call, if needed.	
☐	Confirm that the school sent written notice of the suspension to the parent after suspending the student. • Confirm the school translated the written notice, if needed.	
☐	Confirm the suspension is for no more than five days straight.	
☐	Confirm the student has been suspended for no more than 20 days total that school year (if they haven't transferred schools during the year) or for no more than 30 days total that school year (if they have transferred schools during the year).	

2. Can the school demonstrate that Lenny's behavior violated all **elements** of Section 48900(a)(1) of the Education Code? Why or why not?

   a. Caused OR tried to cause OR threatened to cause

   _____

   _____

   b. Physical injury

   _____

   _____

   c. To another person

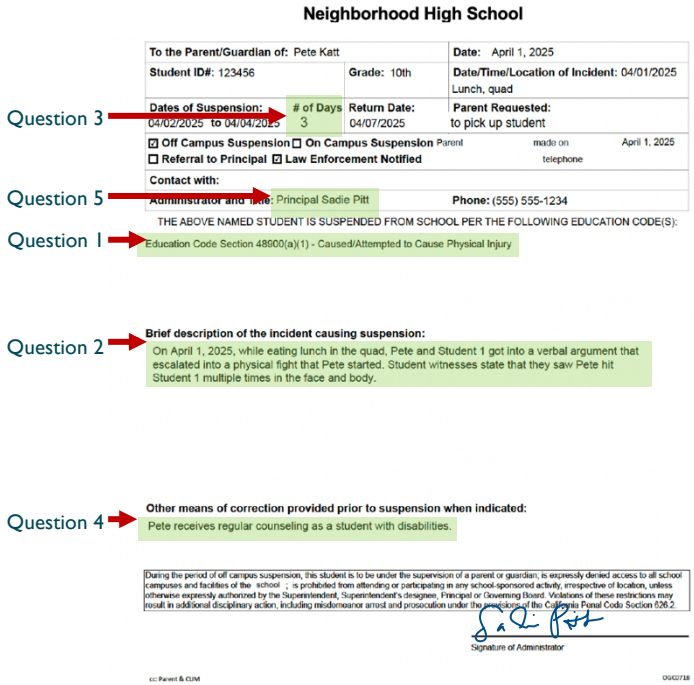
   _____

   _____

Answer Key

Supported Practice

1. Which Education Code Section does the school say the student violated? Education Code Section 48900(a)(1)
2. What behavior is the school accusing the student of (the notice should identify who, what, where, and when)? The school is accusing the student of getting into a verbal argument with Student 1 and then starting a physical fight by hitting Student 1 multiple times in the face and body. The school says this happened on April 1, 2025, at lunch time in the quad.
3. How many days is the suspension for? The suspension is for 3 days.
4. What other means of correction did the school try before suspending the student? The school says that they have offered counseling services to the student.
5. Who signed the suspension notice? Does this person have the power to suspend the student? Principal Sadie Pitt signed the suspension notice. Principal Pitt has the power to suspend the student because she is the principal of the school.



List the elements of the Education Code Section that's listed in the suspension notice:

1. Caused OR tried to cause OR threatened to cause
2. Physical injury
3. To another person

Independent Practice

1. Use the Suspension Compliance Tracker to determine if Lenny's suspension violated any substantive or procedural requirements.

Substantive Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
✓	Refer to the **Elements Chart** to ensure that the violation is listed in Section 48900 of the Education Code.	Lenny is suspended for violating 48900(a)(1)
X	Refer to the **Elements Chart** to ensure that the school has demonstrated evidence of all elements of the violation.	See question 2 for explanation
?	Confirm that the violation took place either (1) at school OR (2) at a school-related activity (for example, a school dance or school football game) OR (3) going directly to or coming directly from school or a school-related activity.	This one is unclear. If the afterschool program is run by the school, then it would be a school-related activity. If the program is not run by the school, then it would not be school-related.
✓	Confirm that the school has tried other means of correction ♦ *Exception:* School is not required to try other means of correction if: (1) the student violated 48900(a)-(e) OR (2) the student's presence at school causes a "danger."	The exception applies because Lenny is accused of violated Section 48900(a)(1).
✓	Ensure that the school is not suspending the student for willful defiance or disruption. Ensure that the school is not suspending a student in grades K-3 for a violation of Section 48900.2, 48900.3, or 48900.4.	Lenny is suspended for violating 48900(a)(1), not for defiance or disruption.

Procedural Requirements (ISS or OSS)		
✓	Description of Requirement	Notes
✓	Confirm that the school investigated the incident before suspending the student.	It's unclear, but it seems like the school did investigate because they took other witness statements.
?	Confirm that the superintendent, principal, or principal's designee made the decision to suspend the student, not another staff member.	A dean can often be a principal's designee, but you should check to make sure that is the case here.
✓	Confirm that the school held a suspension conference before suspending the student. • *Exception:* If the student's behavior creates an "emergency situation," the school can wait two schooldays before holding the conference.	The school met with Lenny before suspending him.
?	Confirm that the suspension conference met the following requirements:	The conference was led by the Dean, who could be the

	• Principal or the principal's designee led the suspension conference. • School gave the student an opportunity to tell their side of the story. • School presented the evidence they have against the student.	principal's designee, but we need to follow up to make sure. The Dean gave Lenny a chance to write a statement. But since Lenny is not a good writer and the Dean did not verbally ask him questions, you can argue this requirement wasn't met.
✓	Confirm that the school made reasonable efforts to call the parent after suspending the student. • Confirm the school provided interpretation on this call, if needed.	The Dean called Lenny's dads and spoke to them.
✗	Confirm that the school sent written notice of the suspension to the parent after suspending the student. • Confirm the school translation of the written notice, if needed	Lenny's dads did not receive the suspension notice until two days later. The school should have provided the notice at the time of the suspension.
✓	Confirm the suspension is for no more than five days straight.	The suspension is for two days.
?	Confirm the student has been suspended for no more than 20 days total that school year (if they haven't transferred schools during the year) or for no more than 30 days total that school year (if they have transferred schools during the year).	Unclear if Lenny has been suspended before and for how many days. You should check his records to confirm the school hasn't suspended him for more than 20 days.

2. Can the school demonstrate that Lenny's behavior violated all **elements** of Section 48900(a)(1) of the Education Code? Why or why not?

    a. Caused OR tried to cause OR threatened to cause

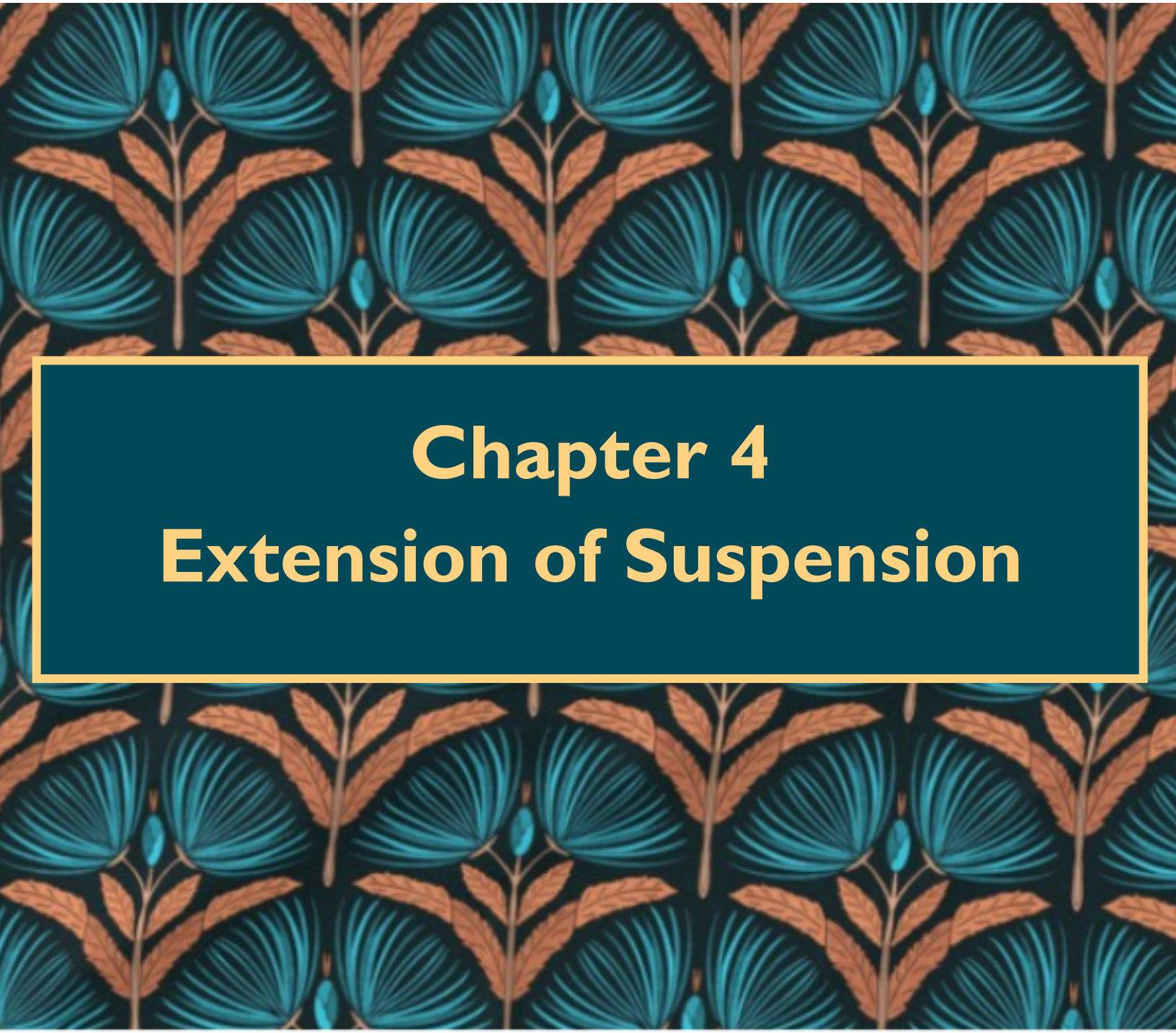
Lenny did not cause or try to cause physical injury because he did not make or attempt to make physical contact with his bully. However, saying he was going to "get" his bully could be construed as a threat, although it is a vague one.

    b. Physical injury

Lenny did not cause, try to cause, or threaten physical injury specifically; however, you will have to argue that Lenny's statement that he would "get" his bully meant something different than physical injury, such as getting him in trouble with school staff.

    c. To another person

If the school can prove (a) & (b), then Lenny's statement was directed at a person: his bully.



Chapter 4
Extension of Suspension

Chapter 4 Roadmap

In this chapter, you will learn about the legal protections a student has before an ***extension of suspension****. You will practice how to identify when a school can extend a student's suspension until an expulsion hearing, what steps they must take to extend the suspension, and how to advocate against an extension of suspension so the student can stay at school while they are waiting for their hearing.*

Study Guide

- What is an extension of suspension and how can you tell when it breaks the law?
  - What are the substantive requirements for an extension of suspension?
    - Was there an initial suspension to extend?
    - Has the school recommended the student for expulsion?
    - What is the **continuing danger standard**?
  - What are the procedural requirements for an extension of suspension?
    - Did the school district invite the student and guardian to an extension of suspension conference?
    - Did the conference take place *before* the initial suspension ended?
    - Was the conference led by the Superintendent or their designee?
    - Did the guardian receive written notice of the extension of suspension that follows the law?

Toolkit Materials

- Chapter 4 Glossary
- Extension of Suspension Compliance Tracker
- Extension of Suspension Conference Preparation Outline

Supported Practice

- *Identifying legal violations at an extension of suspension conference*

Independent Practice

- *Making arguments against extension of suspension*

Study Guide

What is an extension of suspension?

An extension of suspension occurs when a student's suspension lasts until their expulsion hearing, instead of just five schooldays. During an extended suspension, the student might be at home, or the school district might give them the option to attend an alternative school.[18]

How can you tell when an extension of suspension breaks the law?

In California, the Education Code allows a school district to suspend a student for no more than five schooldays in a row for a single incident.[19] But when a student is being recommended for expulsion, a school district *may* be allowed to "extend" a student's suspension until the expulsion hearing if they can meet certain procedural and substantive requirements.[20]

What are the substantive requirements for an extension of suspension?

To extend a suspension, school districts must meet three substantive requirements: (1) there must be an initial suspension to extend; (2) the student must have been recommended for expulsion; and (3) the school district must prove the continuing danger standard.

Was there an initial suspension to extend?

School districts can only *extend* a suspension if the student has already been lawfully suspended. Refer to Chapter 3 for the rules that apply to suspensions.

Has the school recommended the student for expulsion?

A school district can *only* extend a student's suspension if they have recommended the student for expulsion. A school district ***cannot*** extend a student's suspension if they are trying to involuntarily transfer the student instead of expelling them.

What is the continuing danger standard?

Lastly, school districts can only extend suspension if they meet the "continuing danger" standard. This standard requires that "the presence of the pupil at the school or in an alternative school placement would cause a **danger to persons or property** or a **threat of disrupting the instructional process."**[21] The school district cannot prove this standard based on the current disciplinary incident alone. Instead, the school district must consider the student's entire education record and history to show they pose a "danger/disruption."[22]

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[18] School districts still must provide a free appropriate public education to students with IEPs during their extended suspension.
[19] California Education Code Section 48911(a).
[20] California Education Code Section 48911(g).
[21] California Education Code Section 48911(g).
[22] *Natomas Unified School District v. Sacramento County Board of Education* (Cal. Ct. App. 2022) 86 Cal.App.5th 1013, 1030-32.

Discussing the "danger/disruption" standard is a critical part of the conference—the school district cannot just announce their decision to extend the suspension without this discussion and without providing necessary facts and evidence that show that the standard is met.

What are the procedural requirements for an extension of suspension?

Before extending a student's suspension, school districts must take certain steps to make sure the student and guardian have a chance to advocate and be heard. These steps are called procedural requirements. These procedural requirements include: (1) inviting the student and guardian to an extension of suspension conference; (2) holding this conference before the initial suspension ends; (3) holding the conference with the required staff members; and (4) providing the guardian with written notice of the extension of suspension.

Did the school district invite the student and guardian to an extension of suspension conference?

For an extension of suspension to be legal, the school district must invite the student and their guardian to an extension of suspension conference.[23] The conference must take place *before* the school decides to extend the student's suspension. During the conference, the school district must allow the student and guardian to share input, and the school district must show they have facts and evidence to meet the "danger/disruption" standard.

Did the conference take place before the initial suspension ended?

The school must hold the conference to extend the suspension *before* the student's initial suspension ends. As a reminder, the initial suspension cannot be longer than five schooldays.

Was the conference led by the superintendent or their designee?

The only staff members who can lead an extension of suspension conference are the Superintendent or another district staff member who is representing the Superintendent.

Did the guardian receive written notice of the extension of suspension that follows the law?

If the school district decides to extend the student's suspension after holding the conference, then they must send the guardian written notice of the extension of suspension explaining the reasoning for the extension of suspension. If the guardian speaks a language other than English, then the school district must translate the notice.

[23] If a student is in foster care or under the jurisdiction of a juvenile court, the school district also must invite their education rights holder, their minor's attorney, and their social worker to the extension of suspension conference. If the student is also a member of a Native American tribe, the school district must notify their tribal social worker as well.

Chapter 4 Toolkit

Chapter 4 Glossary

"Danger/Disruption" Standard	Standard that a school district must meet to extend a student's suspension until their expulsion hearing. To lawfully extend a suspension, the district must prove that "the presence of the pupil at the school or in an alternative school placement would cause a **danger to persons or property** or a **threat of disrupting the instructional process**."
Extension of Suspension	Occurs when a school district prolongs a student's initial suspension for a disciplinary incident because they are being recommended for expulsion. Instead of the suspension lasting for no longer than five schooldays, the Education Code allows for the suspension to last until the expulsion hearing.

Extension of Suspension Compliance Tracker

How to use the Extension of Suspension Compliance Tracker:

1. Review the checklist to make sure that each box can be checked. If you cannot check a box, the extension of suspension is not legal for that reason.

Substantive Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
☐	Confirm the student has been lawfully suspended.	
☐	Confirm the student has been recommended for expulsion.	
☐	Confirm that the "danger/disruption" standard has been met based on a review of the student's *entire* education records.	

Procedural Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
☐	Confirm that the school district invited the student and guardian to an extension of suspension conference before extending the suspension. ♦ Confirm an interpreter attended the extension of suspension conference, if needed.	
☐	Confirm that the extension of suspension conference took place *before* the initial suspension ended.	
☐	Confirm that the Superintendent or Superintendent's designee led the extension of suspension conference, not another staff member.	
☐	Confirm that the school district sent written notice of the extension of suspension to the guardian *after* the conference. ♦ Confirm the school translated the written notice, if needed.	

Extension of Suspension Conference Preparation Outline

How to use this preparation outline:

1. Review Sample Chart A and Sample Chart B to see examples of how to fill out the charts.
2. Use Chart A to review the student's education records and pull quotes that help show the "danger/disruption" standard is not met.
3. Use the evidence you found in the student's records to fill out questions and arguments in Chart B. During the extension of conference:
    a. First, ask the questions you wrote in the "Questions for District" column.
    b. Second, ask any follow-up questions based on the staff member's responses to your prepared questions.
    c. Third, argue against extending suspension based on the notes you wrote in the Evidence from Records column. These notes are the "outline" for your arguments.

SAMPLE CHART A: How to Review Records to Disprove the "Danger/Disruption" Standard

Type of student record	What to look for in this record	Your notes from the records	Page #
Report cards	• Positive comments from teachers about student's behavior. • Good "citizenship" grades.	*"Student is a pleasure in class."* *Student got S and E on citizenship last semester*	10
Discipline log	Note if there are very few disciplinary entries in total or recently.	*This is the first time student has been disciplined this year.*	18-25
Attendance records	Note if the student regularly attends class.	*Student has only missed two days of school this year.*	27-28
Special Education Evaluations	Note any scores that show strengths in behavior.	*"Student is kind and compliant, but he can be triggered by bullying."*	56
IEPs or Section 504 Plans	• Note any IEP present levels or meeting notes that show strengths in behavior, or services that show the IEP is addressing behaviors. • Note any 504 plan meeting notes that show strengths in behavior.	*Student receives counseling services to help him with bullying.* *Student has a goal to work on de-escalation during peer conflicts.*	75
Awards or Recognitions	Note any awards or recognitions the student has received for good behavior.	*Student is on Honor Roll.* *Student is the captain of the basketball team.*	90
Progress monitoring	Note if student is not receiving a service that the school agreed to provide.	*Student should be getting weekly counseling but hasn't for a month.*	99
Threat assessments	Note if the threat assessment found the student was *not* a threat.	*Law enforcement called, and they did not find Student to be a threat.*	106

SAMPLE CHART B: How to Argue Against the "Danger/Disruption" Standard			
Element of Continuing Danger Standard	Questions for District	Evidence from Records	Notes from Meeting
Danger to persons or property	1. What does it mean for a student to be "dangerous"? 2. Why do you think student is "dangerous"? 3. Show me evidence from student's records that they are "dangerous"?	*Insert quotes from Chart A that show the student does NOT pose a danger to persons or property:* 1. First discipline incident this year 2. Student is kind and usually calm, but bullying triggers him 3. Counseling services 4. De-escalation goal 5. Missing counseling services 6. Police did not find student to be a threat	*Staff said that it doesn't matter that Student's records show no other discipline. They are only talking about this incident.* *Advocate reminded staff that they must consider entire education record (Natomas).* *Advocate brought up counseling services, but staff said it was not relevant.* *Staff said police do not work for the school, and student was not arrested.*
Threat of disrupting instruction	1. What does it mean for a student to pose a threat of "disrupting" the school? 2. Why do you think student would "disrupt" the learning environment? 3. Show me evidence from student's records that they would "disrupt" the learning environment?	*Insert quotes from Chart A that show the student does NOT pose a threat of disrupting instruction:* 1. "Student is a pleasure to have in class" 2. Citizenship grades are high 3. Student's attendance is good 4. Student on honor roll 5. Student is captain of basketball team	*Staff said that the fact that Student attends classes and is generally well-liked does not minimize the threat of disruption he could cause.* *Staff ignored past grades.*

CHART A: Records That Disprove the "Danger/Disruption" Standard			
Student Record	What to look for in this record	Notes from record	Page # of record
Report cards	• Positive comments from teachers about student's behavior. • Good "citizenship" grades.		
Discipline log	Note if there are very few disciplinary entries in total or recently.		
Attendance records	Note if the student regularly attends class.		
Special Education Evaluations	Note any scores that show strengths in behavior.		
IEPs or Section 504 Plans	• Note any IEP present levels or meeting notes that show strengths in behavior, or services that show the IEP is addressing behaviors. • Note any 504 plan meeting notes that show strengths in behavior.		
Awards or Recognitions	Note any awards or recognitions the student has received for good behavior.		
Progress monitoring documents	Note if student is not receiving a service that the school agreed to provide.		
Threat assessments	Note if the threat assessment found the student was *not* a threat.		

CHART B: How to Argue Against the "Danger/Disruption" Standard			
Element of Continuing Danger Standard	Questions for District	Evidence from Records	Notes
Danger to persons or property	1. What does it mean for a student to be "dangerous"? 2. Why do you think student is dangerous? 3. Show me evidence from student's records that they are dangerous? 4. *Write in your own questions here:*		
Threat of disruption to instruction	1. What does it mean for a student to pose a threat of "disrupting" the school? 2. Why do you think student would disrupt the learning environment? 3. Show me evidence from student's records that they would disrupt the learning environment? 4. *Write in your own questions here:*		

Supported Practice

Read the scripted extension of suspension conference below and fill out the Compliance Tracker.

Background: Rebecca was given a 5-day suspension, starting on October 1, 2024, for allegedly selling a vape at school. Rebecca was suspended once two years ago for profanity, but she has not had another disciplinary incident since then. On October 8, 2024, the school called Rebecca's dad to let her know that he needed to come to the school at 3pm that day for a "conference." Rebecca's dad arrived at the school on time, but he does not know what the conference is about.

Front Office, Rebecca's School, 3pm on October 8, 2024

Assistant Principal Larry: Thank you for coming in today. I want to let you know that we are extending Rebecca's suspension because she is being recommended for expulsion for selling the vape. Here is a letter that explains this. [AP Larry hands written notice to dad.]

Dad: Wait. I did not know that Rebecca was being expelled. She already told you that she did not sell the vape.

AP Larry: You can tell all of that to the expulsion panel. What we are here to discuss today is Rebecca's extension of suspension, which is something the school always does when students are being expelled. She is not allowed to come back to school until her expulsion hearing is over. If she tries to come back, she will be in even more trouble.

Dad: This doesn't seem fair. Rebecca's suspension ended yesterday, and she hasn't gotten in any trouble for at least a year!

AP Larry: The past doesn't matter. All that matters is that she sold the vape and is facing expulsion now. Thanks for coming. We will be in touch soon to give you more information about the expulsion hearing.

Substantive Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
☐	Confirm the student has been lawfully suspended.	
☐	Confirm the student has been recommended for expulsion.	
☐	Confirm that the "danger/disruption" standard has been met based on a review of the student's *entire* education records.	

Procedural Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
☐	Confirm that the school district invited the student and guardian to an extension of suspension conference before extending the suspension. ♦ Confirm an interpreter attended the extension of suspension conference, if needed.	
☐	Confirm that the extension of suspension conference took place *before* the initial suspension ended.	
☐	Confirm that the Superintendent or Superintendent's designee led the extension of suspension conference, not another staff member.	
☐	Confirm that the school district sent written notice of the extension of suspension to the guardian *after* the conference. ♦ Confirm the school translated the written notice, if needed.	

Independent Practice

Let's check in with Lenny Pugg, who we met in Chapter 3. Read the new events that happened below and then fill out the Extension of Suspension Conference Preparation Outline.

Lenny Returns to School and is Bullied

After Lenny's two-day suspension, he went back to school on April 4, 2025. Every day the next week, Student 1 bullied him. On Monday, Student 1 shoved Lenny on the playground and called him a "dummy." On Tuesday, Student 1 spilled food on Lenny during lunch on purpose and then got the other kids to make "oink" noises at him. On Wednesday, Student 1 stole Lenny's notebook when the teacher wasn't looking and wrote curse words on the front of it. After school on Thursday, Student 1 tripped Lenny as he was walking out of class and told him, "You better watch out. I have something special planned for you tomorrow. Oink oink."

By Friday, April 11, 2025, before school, Lenny was fed up. He felt humiliated, his favorite notebook was ruined, his dad was annoyed with him for spilling on his clothes, and the other kids kept oinking at him. He knew that Student 1's "something special" for him meant that he was going to be hurt or worse. While his dads were getting ready for work, Lenny snuck out to the garage and grabbed a small pocketknife and an empty bullet shell that his grandpa had given to him while camping last summer. He knew he would never use either of these items to hurt anyone, even Student 1, but he felt safer having these things in his backpack just in case.

Lenny's morning was terrible. Student 1 was telling everyone to find him during recess because he was finally going to teach Lenny a lesson. On top of that, he got in trouble for blurting out in class and for getting out of his seat without permission to try to tell the teacher about the bullying. When it was time for recess, Lenny was really scared. He reached into his backpack and grabbed the pocketknife and held it in his pocket.

Lenny tried to stay away from Student 1 at recess. He went to the far corner of the playground to hide. Unfortunately, Student 1 and a group of his friends found Lenny quickly, and even worse, none of the adults monitoring recess could see the boys. In what felt like a second, Lenny was surrounded by a group of oinking boys, and Student 1 started to walk towards him. Lenny reached into his pocket and pulled out the pocketknife to show Student 1 that he could defend himself, but Lenny never opened it. Lenny shouted, "You all better back up because I have this!" and he showed the closed pocketknife to the group.

The other students just laughed at him, but a younger girl saw what was happening and told a monitor that Lenny had a weapon. As the yard monitor was walking up, one of the boys yelled "RUN!" and the group dispersed, leaving Lenny on his own to be taken to the office. There, Dean Murphey searched Lenny and his backpack, finding the pocketknife in Lenny's hoodie and the bullet casing in Lenny's backpack.

Lenny is suspended

After the search, Dean Murphey took Lenny to a small office in the back and had him write a statement. Lenny asked if he could talk to his dads first, and Dean Murphey told him that they were calling dads, but he needed to do the statement now. The dean also told Lenny that the School Resource Officer was on his way with some questions.

While Lenny was writing his statement, Dean Murphey interviewed Student I and some other students and put their statements in a file in his office. He also took pictures of the bullet shell and the pocketknife and added those to the file as well.

Lenny's dads rushed to the school and got there within the hour. When they arrived, a police officer told them that he had talked to Lenny, and he was not going to cite him. He said he was being bullied and was trying to defend himself by showing the closed knife but not using it.

Dean Murphey pulled dads aside in the front office and told them that Lenny was being suspended and recommended for expulsion because he pulled a knife on a group of students and had a "weapon" in his backpack.

Dads asked what the weapon was, and Dean Murphey said that they would get a packet in a few days with the evidence once the investigation was over. For now, he told dads that Lenny was not allowed to come back to school until he said so. Lenny came out with his backpack, holding a suspension notice from the Dean Murphey.

Lenny's Dads Get an Advocate

Dads took Lenny home and called their advocate, You! You got a release of information from dads and requested Lenny's records immediately. You also reminded Dean Murphey that he needed to hold an extension of suspension conference before the school could extend Lenny's suspension beyond five schooldays. Dean Murphey rudely responded, "I don't need your help to know what the law requires. You and Lenny's dads can come in next week for a conference."

The next day, the school sent you the following records:

- The suspension notice from April 1, 2025;
- The suspension notice from April 11, 2025;
- Lenny's discipline log;
- Lenny's semester 1 report card; and
- Meeting notes from Lenny's last IEP.

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 1, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 03/31/2025 After school program, playground
Dates of Suspension: 04/02/2025 to 04/03/2025 **# of Days** 2	**Return Date:** 04/04/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☐ **Law Enforcement Notified**		Parent made on telephone April 1, 2025
Contact with:		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/threatened to cause physical injury

Brief description of the incident causing suspension:

Lenny yelled at [Student 1] in front of a large group of students. Lenny threatened [Student 1] by saying he was going to "get him" in the future. [Student 1] reports feeling very afraid to come to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the AVUHSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 11, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 04/11/2025, quad, recess
Dates of Suspension: 04/11/2025 **to**	**# of Days** / **Return Date:** after hearing	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** Parent made on April 11, 2025 telephone ☐ **Referral to Principal** ☑ **Law Enforcement Notified**		
Contact with: parents		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900.4 – creation of a hostile educational environment

Education Code Section 48915(a)(1)(B) – possession of a knife

Education Code Section 48915(c)(2) – brandishing a knife

Brief description of the incident causing suspension:

On April 11, 2025 during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the CUSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

City Unified School District

Neighborhood Elementary School

STUDENT DETAIL BEHAVIOR LOG

To: Discipline

From: Dean Murphey

Student: Lenny Pugg

Student ID: 654321

DOB: 09/21/2016

Date Enrolled: August 15, 2021 Date Left: April 11, 2025

Date	Type	Description	Updated By and Date
April 1, 2025, 3:45 pm	Student Referrals – Discipline	**Reason:** Caused, attempted to cause, or threatened to cause physical injury **Description:** Lenny yelled at Student 1 in front of a large group of students. Lenny threatened Student 1 by saying he was going to "get him" in the future. Student 1 reports feeling very afraid to come to school. **Comments/Follow-up:** **Prior Interventions:** **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Suspension **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/02/2025 **Effective End Date:** 04/03/2025 **Number of Suspension Days:** 2	Dean Murphey 4/2/2025
April 11, 2025, 10:35 am	Student Referrals – Discipline	**Reason:** Brandishing a knife at another person; possessing a dangerous object; creating a hostile learning environment **Description:** Lenny threatened and terrified a group of students with a pocketknife he brought to school. **Comments/Follow-up:** **Prior Interventions:** Suspension **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Recommended for Expulsion, Law Enforcement Notification (no citation issued) **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/11/2025 **Effective End Date:** -- **Number of Suspension Days:** --	Dean Murphey 4/11/2025

City Unified School District

CALIFORNIA CONTENT STANDARDS ELEMENTARY REPORT CARD

Neighborhood Elementary School

Administrator: MURPHEY Year: 2024-2025

Student Name: LENNY PUGG
Student ID: 654321
DOB: 09/21/2016 Language Classification: LEP
Teacher Name: M. Riley Grade: 3 Room #: 5

Reporting Period	1st	2nd	3rd
Days Present:	60	58	
Days Absent:	0	2	
Days Tardy:	0	0	

Academic Subjects	Demonstrates Knowledge of California Content Standards	1st	2nd	3rd
English Language Arts	Foundational Reading Skills	2	1	
	Making Meaning from Text	2	1	
	Language Conventions, Effective Use, Vocabulary	2	1	
	Effective Expression Through Writing	2	1	
	Effective Expression Through Speaking and Listening	2	1	
Mathematics Content	Operations and Algebraic Thinking	3	2	
	Number and Operations in Base Ten	4	2	
	Measurement and Data	3	2	
	Geometry	3	3	
	Number and Operations—Fractions	4	3	
Mathematical Practices	Problem Solving and Precision	3	1	
	Reasoning and Explaining	3	2	
	Modeling and Using Tools	3	2	
	Seeing Structure and Generalizing	3	1	
Science	Content and Concepts	2	1	
	Conducts Investigations	3	1	
	Constructs Relevant Questions	2	1	
History-Social Science	Content and Concepts	3	2	
	Historical and Social Science Analysis Skills	2	2	
Visual and Performing Arts	Dance	4	4	
	Music	4	4	
	Visual Arts	3	4	
Physical Education	Content and Concepts	4	4	
Health Education	Content and Concepts	4	4	

Academic Scores Key				
4 = Exceeds Grade Level Standards	**3** = Meets Grade Level Standards	**2** = Progressing Toward Grade Level Standards	**1** = Minimal Progress Toward Grade Level Standards	**N/A** = Not assessed in current reporting period

Teacher Comments (First Reporting Period):

Puts in great effort

Participates in class

Meets or approaching standards in most areas

Thoughtful and kind

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Second Reporting Period):

Seems distracted during class

Does not complete classroom assignments

Does not consistently participate in class

Does not complete homework assignments

Far below standards in most areas

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Third Reporting Period):

M. RILEY	Date	GIL PUGG	Date

AMENDMENT DATE: 3/1/2025 PURPOSE: Parent request

CITY UNIFIED SCHOOL DISTRICT IEP
TEAM MEETING NOTES

Student Name: Lenny Pugg **Birthdate:** *9/21/2016* **IEP Date:** *3/1/2025*

Date Saved: 3/1/2025

Notes: Dean Murphy (admin), Mary Riley (gen ed teacher), Jen Daily (special education coordinator), Mark Tinker (speech pathologist), Gabe Ellerby (RSP teacher); Han and Gilbert Pugg (parents)

J. Daily - started meeting by introducing IEP team. The purpose of the IEP is parent request due to behavioral and academic concerns about Lenny.

Strengths and challenges:

Dean Murphy - Lenny is a polite and energetic boy who always says hello in the hallways. He has been sent to the office a few times this year for disruptive behavior, but he is always apologetic and does not take long to refocus and get back to class when he is allowed quiet time.

M. Riley - Lenny is a sweet boy who tries hard and wants to please. His favorite subjects are math, and he is a talented artist. He struggles with reading and writing, mostly with comprehension and organizing his thoughts. He is a capable student with excellent attendance, but his issues are mostly due to focus and effort on non-preferred activities. He does tend to blurt out and engage in impulsive or disruptive behavior, but he is never defiant or rude. I do worry about his ability to make friends--he does seem to struggle with that, and his peers are often annoyed with him.

G. Ellerby - Lenny is fun to work with. He loves to laugh and makes connections quickly with people who give him praise and encouragement. He has somewhat stopped progressing in reading and writing this semester, which seems to be due to a lack of interest and motivation. He loves to chat about art and sports, so it is difficult to refocus him off those areas of interest to get him to work. I have seen him come to RSP at times appearing a bit sad or withdrawn the past few months, but he doesn't want to talk about it.

M. Tinker - Lenny is a sweet kid. He tries hard in speech and loves to get answers correct. He can be impulsive and hard to redirect at times, but he is never rude.

J. Daily - Lenny is a joy to have around. His smile is infectious! His grades have slipped recently, and I have heard concerns that his impulsivity is getting the best of him in class. I have spoken to his teacher to see if I can support.

Parents - Lenny is a great son. He wants to please and is motivated to one day be an artist or a baseball player. He used to really love school, but lately he has been coming home sad and withdrawn. Also concerned about the number of calls they are getting about Lenny's classroom behavior. He has ADHD, and has always had impulsive behavior, but his other teachers were able to more easily redirect him. Concerned because they don't know what is going on. Lenny also seems to be lonely at school and they are worried that he may be experiencing bullying.

Answer Key

Supported Practice

Substantive Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
✓	Confirm the student has been lawfully suspended.	Rebecca was suspended for five days for allegedly selling a vape.
✓	Confirm the student has been recommended for expulsion.	AP Larry told Rebecca's dad she is being recommended for expulsion at the conference.
X	Confirm that the "danger/disruption" standard has been met based on a review of the student's *entire* education records.	The district cannot automatically extend Rebecca's suspension just because she has been recommended for expulsion. AP Larry should have considered Rebecca's entire education record, including that she only has one other suspension.

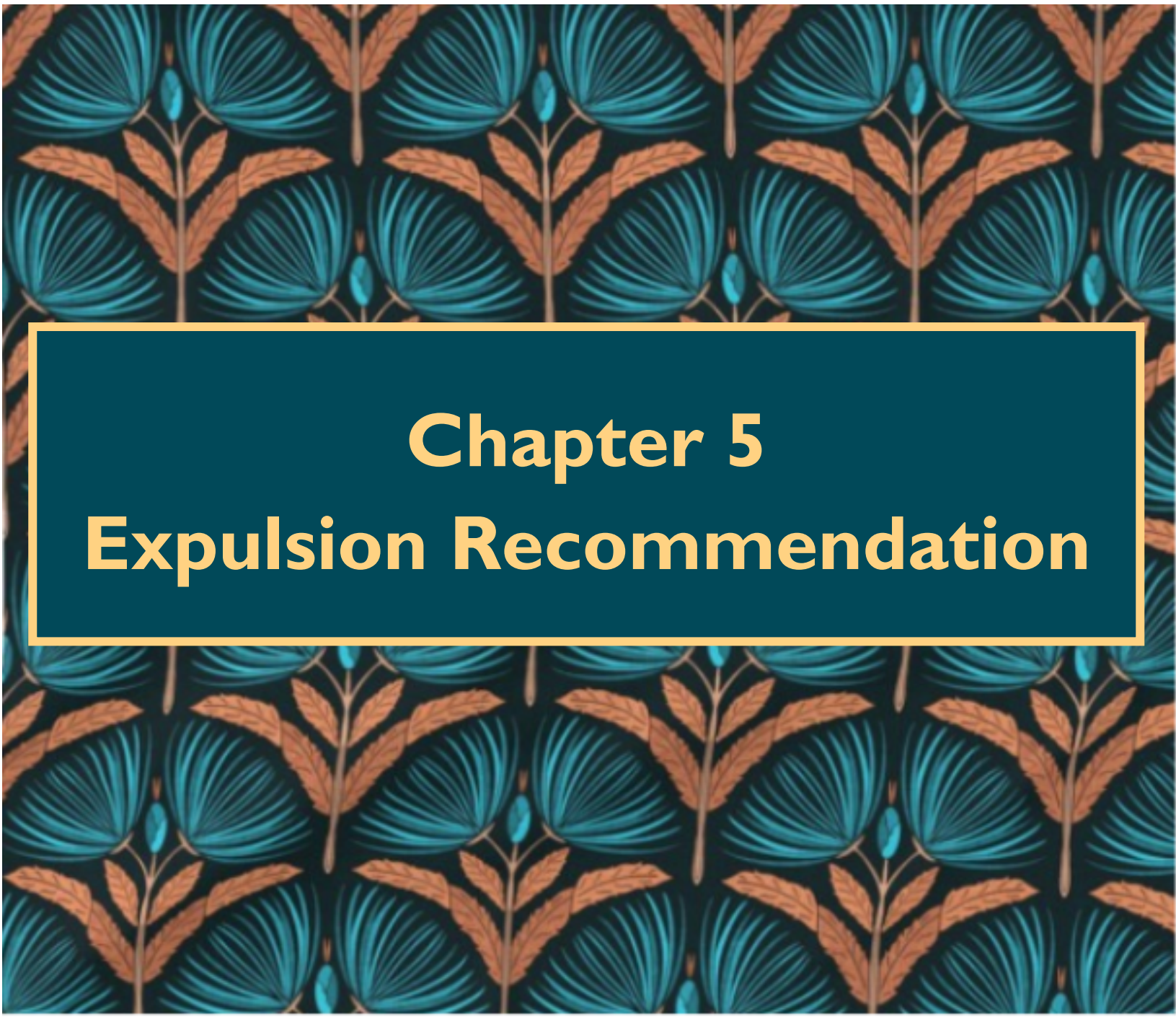
Procedural Requirements (Extension of Suspension)		
✓	Description of Requirement	Notes
X	Confirm that the school district invited the student and guardian to an extension of suspension conference before extending the suspension. ♦ Confirm an interpreter attended the extension of suspension conference, if needed.	AP Larry invited Rebecca's dad to the conference, but he did not specifically invite Rebecca as well.
X	Confirm that the extension of suspension conference took place *before* the initial suspension ended.	Rebecca's five-day suspension ended on October 7, 2024, but AP Larry did not hold the conference until October 8.
?	Confirm that the Superintendent or Superintendent's designee led the extension of suspension conference, not another staff member.	Research if the Superintendent has given AP Larry permission to extend suspensions.
X	Confirm that the school district sent written notice of the extension of suspension to the guardian *after* the conference. ♦ Confirm the school translated the written notice, if needed.	AP Larry gave Rebecca's dad written notice *at the beginning* of the conference instead of after it. This shows that AP Larry had already decided to extend the suspension before the conference started.

Independent Practice

CHART A: Records That Disprove the "Danger/Disruption" Standard			
Student Record	What to look for in this record	Notes from record	Page # of record
Report cards	• Positive comments from teachers about student's behavior. • Good "citizenship" grades.	Teacher says he "put in great effort," "participates in class," and is "thoughtful and kind." His grades seem to have declined this semester and the teacher notes that he seems distracted in class – maybe this is because of the bullying?	84-85
Discipline log	Note if there are very few disciplinary entries in total or recently.	Other than this incident, Lenny only has one other discipline incident in his record. That incident also stemmed from the bullying Lenny is experiencing.	83
Attendance records	Note if the student regularly attends class.	Lenny has excellent attendance. He has only missed 2 days of school so far this school year.	84
Special Education Evaluations	Note any scores that show strengths in behavior.	*We don't have copies of these.*	N/A
IEPs or Section 504 Plans	• Note any IEP present levels or meeting notes that show strengths in behavior, or services that show the IEP is addressing behaviors. • Note any 504 plan meeting notes that show strengths in behavior.	• Murphey: Lenny is "polite," "energetic," "always says hello in the hallways," sent to the office for "disruption" but "always apologetic," quiet time helps him "refocus." • Riley: Lenny is "sweet," "tries hard," "wants to please," "capable student," issues in class	86

		are mostly due to "focus," never "defiant" or "rude," worries about his ability to make friends. • RSP teacher: Lenny "loves to laugh," "responds well to praise and encouragement," "has been a bit sad and withdrawn the past few months." • Speech provider: Lenny "can be impulsive and hard to redirect" but he is never "rude." • Sped coordinator: Lenny's "smile is infectious" and he's a "joy to have around." • Parents raised concerns about bullying and lack of classroom support.	
Awards or Recognitions	Note any awards or recognitions the student has received for good behavior.	*We don't have copies of these.*	N/A
Progress monitoring documents	Note if student is supposed to be getting a service that they should have been getting	*We don't have copies of these.*	N/A
Threat assessments	Note if the threat assessment found the student was *not* a threat.	We don't have a copy of the report, but the police officer told Lenny's dads that he wasn't going to cite Lenny because Lenny was being bullied and defending himself by showing the closed knife and not using it.	N/A

CHART B: How to Argue Against the "Danger/Disruption" Standard		
Element of Continuing Danger Standard	Questions for District	Evidence from Records
Danger to persons or property	1. What does it mean for a student to be "dangerous"? 2. Why do you think student is dangerous? 3. Show me evidence from student's records that they are dangerous? 4. *Write in your own questions here:*	• Lenny has only one other discipline incident in his records. Both incidents happened because Lenny is being bullied. He is not dangerous – he needs support from school to deal with bullying. • Lenny's teacher says he is "thoughtful and kind." She works with him every day, and she has not expressed concern that he is "dangerous." • The police officer didn't cite Lenny. The police officer believed that Lenny was not going to use the knife – he was only showing it to defend himself and stop the bullies.
Threat of disruption to instruction	1. What does it mean for a student to pose a threat of "disrupting" the school? 2. Why do you think student would disrupt the learning environment? 3. Show me evidence from student's records that they would disrupt the learning environment? 4. *Write in your own questions here:* *Would this incident have happened if Lenny wasn't being bullied?*	• Lenny has excellent attendance – he has only missed two days of instruction this year. • Lenny's teacher notes that he "participates in class" and "puts in great effort." This semester, he has struggled to pay attention in class because of the bullying. But he still hasn't done anything in class to disrupt the learning environment.



Chapter 5
Expulsion Recommendation

Chapter 5 Roadmap

In this chapter, you will learn about a student's rights when they receive an official notice of a district's ***expulsion recommendation****, including how the Education Code construes the severity of the alleged behavior and how to set up your arguments in light of the* ***level of discretion*** *the Education Code gives to districts to expel for particular violations. You will practice identifying the level of discretion the Education Code permits for a particular violation, identifying what a district must prove at hearing for that level of discretion, and outline your best arguments.*

Study Guide

- What is an expulsion and how can you tell if it breaks the law?
  - What are the substantive requirements for an expulsion?
    - Did the behavior violate the Education Code?
    - Is the violation discretionary, medium discretionary, or zero tolerance?
    - Can the student argue that they acted in self-defense?
    - Does the district have to prove **secondary findings**?
      - Has the district attempted other means of correction?
      - Can the district prove that the student poses a continuing danger?
  - What are the procedural requirements for an expulsion?
    - Did the district follow required procedures for suspension?
    - Did the district follow required procedures for extension of suspension?
    - Did the district hold an MDR, if required?
    - Did the district schedule the expulsion hearing within 30 schooldays?
    - If the student requested **postponement**, did the school grant the request?
    - Did the district provide written notice of the expulsion hearing at least 10 calendar days before the hearing?
    - Did the district's notice include all legally required components?

Toolkit Materials

- Chapter 5 Glossary
- Elements of California Education Code Section 48915 Violations
- Expulsion Compliance Tracker

Supported Practice

Identifying the level of discretion for Education Code violations and whether a district needs to prove secondary findings.

Independent Practice

Reviewing a fact pattern to practice making secondary findings arguments.

Study Guide

What is an expulsion and how can you tell if it breaks the law?

As stated in Chapter 2, an expulsion is a type of school discipline that removes a student from the school they are attending and prevents them from attending any comprehensive campus in the district. It is the most severe disciplinary action a school district can take. For that reason, the law requires that expulsions be reserved for serious behaviors outlined in the California Education Code or repeated violations that significantly disrupt the educational environment.[24]

Because the consequences of an expulsion are severe, the law provides extensive rules that govern the procedures a district must follow and protections a district must provide to students recommended for expulsion. At an expulsion hearing, the school must prove the following four elements before a student can be lawfully expelled for most violations:

1. The student committed the violation charged, which must be a lawful ground for expulsion in the Education Code.
2. The violation must be related to school attendance or activities;
3. All procedural and time requirements must have been met;
4. "Secondary findings" were met for discretionary and medium discretionary violations.

Substantive and procedural requirements related to the district's **burden of proof** at an expulsion hearing are outlined below.

What are the substantive requirements for an expulsion?

There are several substantive requirements that a school must meet to prove that the student actually committed the violation in question and can lawfully be expelled.

Did the behavior violate the Education Code?

As with suspensions, schools can only recommend a student for expulsion if their behavior violated the Education Code. The toolkit for this chapter includes an Elements Chart for expellable behaviors.

Is the violation discretionary, medium discretionary, or zero tolerance?

The Education Code[25] creates three categories of violations that can lead to a suspension or recommendation for expulsion, these being: (1) discretionary violations; (2) medium discretion violations; and (3) mandatory expulsion ("zero tolerance") violations.

[24] California Education Code Sections 48900, 48915.
[25] California Education Code Section 48915.

These categories differ in the amount of discretion a school official has in deciding whether to offer the student other means of correction, suspend them, or recommend them for expulsion. The level of discretion also determines the legal standard that applies in the expulsion hearing.

Discretionary Violations

For most student behaviors, school officials have full discretion on whether to suspend or recommend expulsion. Principals, superintendents, and other school officials are free to provide alternatives "that are age-appropriate and designed to address and correct the misbehavior."[26] These "fully discretionary" violations[27] include:

- Fighting;
- Stealing;
- Damaging property;
- Possessing tobacco;
- Bullying;
- Sexual harassment;
- Vulgarity; and
- Possessing an imitation firearm.

Medium Discretionary Violations

Medium discretionary violations[28] are Education Code violations where a school official has discretion *not* to recommend expulsion if they determine that it would be: (1) inappropriate under the circumstances or (2) that an alternative means of correction exits that would address the conduct. The Education Code designates the following as medium discretionary violations:

- Causing serious bodily injury, except in self-defense;
- Possession of a knife or other dangerous object;
- Possession or use of a controlled substance, unless the substance is prescribed;
- Possessing less than one ounce of marijuana;
- Robbery or extortion; and
- Assault or battery upon a school employee.

School officials must make their determination about whether to suspend a student or recommend expulsion "as quickly as possible" to ensure they do "not lose instructional time."[29] For this type of violation as well as for mandatory expulsion violations, the conduct must be "committed at school or at a school activity off school grounds."[30]

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[26] California Education Code Section 48900(v).
[27] California Education Code Sections 48915(e), 48900(f)-(m).
[28] California Education Code Section 48915(a).
[29] California Education Code Section 48915(a)(2).
[30] California Education Code Section 48915(a), (c).

Mandatory Expulsion ("Zero Tolerance") Violations

"Zero tolerance" violations[31] are Education Code violations where school officials must *immediately* suspend and recommend expulsion for students who are shown to have committed any of the following violations:

- Possessing, selling, or furnishing a firearm;
- Brandishing a knife at another person;
- Selling a controlled substance;
- Committing or attempting to commit sexual assault or sexual battery; or
- Possession of an explosive.

"Zero tolerance" violations are subject to a stricter legal standard because they automatically lead to expulsion if the district proves the student engaged in the alleged behavior. However, California's Attorney General has stated that a school district may not adopt its own zero tolerance policy or add to the above list of zero tolerance violations.[32]

Can the student argue that they acted in self-defense?

Self-defense is an implied affirmative defense for every Education Code violation. This means the student can always argue that they acted in self-defense, but they will have the burden of proof on this issue at hearing. However, there are two exceptions where *the school* must prove the student did *not* act in self-defense: "willful use of force or violence"[33] and brandishing.[34] For these violations, the Education Code includes an exception for self-defense in the elements of the violation, so this puts the burden of proof on the school for this issue.

Does the district have to prove secondary findings?

For discretionary and medium discretionary violations, the school must show that it can meet *at least one* of the "secondary findings." The secondary findings are:

1. Other means of correction are not feasible or have failed previously; OR
2. Due to the nature of the student's actions, the student causes a "continuing danger" to the safety of the student or others.

Has the district tried other means of correction?

The "secondary findings" prong is a critical advocacy opportunity in expulsion proceedings. For all violations other than zero tolerance violations, it is not enough for the school to prove the student engaged in the alleged behavior; rather, the school board must also find that other

[31] California Education Code Section 48915(c).
[32] The full text of this statement is found at https://oag.ca.gov/system/files/opinions/pdfs/97-903.pdf.
[33] California Education Code Section 48900(a)(2).
[34] California Education Code Section 48915(c)(2).

means of addressing the student's behavior are not possible or that the student's behavior is so severe that it poses a safety concern.[35] Other means of correction can include:

- A conference with the parent and the student;
- Referring the student to the school counselor, psychologist, social worker, or another school support service provider;
- Providing the student with a behavior plan;
- Referring the student for a psychosocial or psychoeducational assessment for the purposes of determining whether an IEP or 504 plan is necessary;
- Participating in a restorative justice program or positive behavior support approach with tiered interventions; or
- Enrolling the student in an after-school community-based program.

Can the district prove that the student poses a "continuing danger"?

The "continuing danger" standard here is similar to the standard for extension of suspension (Chapter 4). Here, the school district must prove that "the presence of the pupil causes a **continuing danger to the physical safety of the pupil or others**."[36] The arguments here are similar to the ones at the extension of suspension conference, but arguably, the standard here is higher, since the danger has to be to the *physical* safety of students, not merely a risk of disruption or danger to property. And, as with extensions of suspension, the school district cannot prove the "continuing danger" standard based on the current disciplinary incident alone. Instead, the school district must consider the student's entire education record and behavior history to show the student poses a "continuing danger."[37]

What are the procedural requirements for an expulsion?

Did the district follow required procedures for suspension?

To lawfully expel a student, the school district must prove that it followed all required procedures for the initial suspension. Chapter 3 discusses these procedures.

Did the district follow required procedures for extension of suspension?

To lawfully expel a student, the school district must prove that it followed all required procedures for the extension of suspension. Chapter 4 discusses these procedures.

Did the district hold an MDR, if required?

To lawfully expel a disabled student, the school district must hold a procedurally and substantively compliant MDR. Chapter 6 discusses the requirements related to MDRs.

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[35] California Education Code Section 48915(b), (e).
[36] California Education Code Section 48915(b)(2).
[37] *Natomas Unified School District v. Sacramento County Board of Education* (Cal. Ct. App. 2022) 86 Cal.App.5th 1013, 1030-32.

Did the district schedule the expulsion hearing within 30 schooldays?

The school district must hold the expulsion hearing within *30 schooldays* of the initial suspension, unless the student requests a postponement[38] or the superintendent extends this deadline for "good cause."[39] If the school district does not hold the hearing within the required timeframe, the board loses jurisdiction to expel the student and any action it takes at hearing is invalid.[40]

The school board may conduct the expulsion hearing itself or it may appoint a hearing officer or panel to oversee the hearing. If a hearing officer or panel conducts the hearing, it must submit findings to the school board within three days of the hearing.

If the student requested postponement, did the school grant the request?

A student is entitled to at least one postponement of the hearing, and they must request this postponement in writing. The postponement can be for a period of no longer than 30 days. The school board has discretion to approve or deny any further postponement requests.[41]

Did the district provide written notice of the expulsion hearing at least 10 calendar days before the hearing?

The school district must send *written* notice of the expulsion hearing to the student at least *10 calendar days* before the hearing.[42]

Did the district's notice include all legally required components?

The notice must include the date and location of the hearing, the specific facts and charges that are the grounds for the expulsion referral, a copy of the district's disciplinary rules relating to the alleged violation, and notice that the parent/guardian and the student have the right to appear in person, be represented by an attorney or a non-attorney advocate,[43] inspect and obtain copies of all documents[44] the school will use at the hearing, question all witnesses appearing at the hearing, and present evidence on the student's behalf.[45]

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[38] *See* California Education Code Section 48918(a).
[39] California Education Code Section 48918(a); the superintendent may extend the 30-day timeframe by 5 days if it makes a "good cause" finding that it is "impracticable" for the school board to comply with the deadline.
[40] *See Garcia v. Los Angeles County Board of Education* (Cal. Ct. App. 1981) 123 Cal. App. 3d.
[41] If the student's postponement request delays the hearing beyond the 30-day timeframe, they cannot use this against the district to dismiss a case under *Garcia v. Los Angeles County Board of Education* (Cal. Ct. App. 1981) 123 Cal. App. 3d. 807.
[42] California Education Code Section 48918(b). Note that this requirement does not entitle a student to *receive* notice 10 days before the hearing, only that the school district must send the notice before this deadline.
[43] California Education Code Section 48918(b). Students and families must provide for their own representation.
[44] All documents pertaining to a student's suspension and recommendation for expulsion must be translated by the school district if the parent requests this. Additionally, there are strong Constitutional arguments to be made in favor of a district-provided interpreter for the hearing, although the Education Code does not explicitly provide for one.
[45] California Education Code Section 48918(b).

Chapter 5 Toolkit

Chapter 5 Glossary

Burden of Proof	In expulsion hearings, school districts have the burden of proof. This means that it is the district's job to prove all the things that law requires to prove in order to expel the student. In other words, it is not your job to prove that the student **did not** do what the district is saying; rather, you just have to show that the district cannot meet their obligation to prove their case, which is easier to do.
Expulsion Recommendation	A formal proposal from a school administrator to a school district recommending that the district initiate expulsion proceedings based on their belief that the student has engaged in serious misconduct.
Level of Discretion	The ability a school district has under the law to choose whether to proceed with an expulsion for a particular violation or to order alternative disciplinary measures. It also determines whether the district has to make secondary findings in addition to proving that the student committed the violation.
Secondary Findings	Additional considerations, beyond whether the violation occurred, that the school must consider before expelling a student for a discretionary or medium-discretionary violation.
Postponement	Student right to reschedule or delay the expulsion hearing for up to 30 days.

Elements of California Education Code Sections 48900 and 48915 Violations

How to use the elements chart:

Step 1: Check the expulsion notice to see what Education Code sections are listed.

Step 2: Find that section or sections on the chart.

Step 3: Go through the list of elements and make sure that the District can prove each one with evidence. The subsections are color coded to indicate if the violation is **discretionary**, **medium discretionary**, or **zero tolerance**.

Education Code Section	Subsection	Elements
48900	a(1)	1. Caused OR tried to cause OR threatened to cause 2. Physical injury 3. To another person
	a(2)	1. Willfully 2. Used force OR violence 3. On another person 4. Not in self-defense
	b	1. Possessed OR sold OR gave someone 2. A gun OR a knife OR an explosive OR another dangerous object 3. Without written permission from school staff and administration
	c(1)	1. Possessed OR used OR sold OR gave someone OR was under the influence of 2. An illegal drug OR alcohol OR anything else that could cause intoxication 3. Student didn't voluntarily tell school staff about substance abuse to get help
	d	1. Offered to sell OR arranged to sell OR negotiated to sell 2. An illegal drug OR alcohol OR anything else that could cause intoxication 3. Sold OR delivered OR gave to someone 4. Liquid OR substance OR material 5. Represented the liquid OR substance OR material as an illegal drug OR alcohol OR anything else that could cause intoxication
	e	Robbed someone OR extorted someone OR threatened to rob someone OR threatened to extort someone
	f	1. Caused OR tried to cause damage 2. To school property (includes electronic files and databased) OR private property
	g	1. Stole OR tried to steal 2. School property (includes electronic files and databases) OR private property

	h(1)	1. Possessed OR used 2. Tobacco OR tobacco products OR nicotine products 3. Student was not prescribed the product 4. Student didn't voluntarily tell school staff about tobacco use to get help
	i	1. Committed an obscene act OR repeatedly used profanity OR repeatedly used vulgarity
	j	1. Possessed OR unlawfully offered to sell OR unlawfully arranged to sell OR unlawfully negotiated to sell 2. Drug paraphernalia (defined in Health and Safety Code Section 11014.5)
	l	1. Knowingly received 2. Stolen 3. School property (includes electronic files and databases) OR private property
	m	1. Possessed 2. An imitation firearm (defined in the statute)
	n	1. Committed OR tried to commit 2. Sexual assault (defined in Penal Code Sections 261, 266c, 286, 287, 288, or 289) OR sexual battery (defined in Penal Code Section 243.4)
	o	1. Harassed OR threatened OR intimidated 2. A student 3. Who is a complaining witness OR a witness in a school discipline hearing 4. For the purpose of preventing the pupil from being a witness AND/OR for the purpose of retaliating against that pupil for being a witness
	p	1. Unlawfully offered OR arranged to sell OR negotiated to sell OR sold 2. Soma (a type of prescription drug)
	q	1. Hazed OR tried to haze someone. Hazing means: a. A method of initiation OR a method of pre-initiation b. Into a pupil organization OR into a pupil body c. That is likely to cause seriously bodily injury OR is likely to cause personal degradation OR is likely to cause disgrace resulting in physical or mental harm d. To a former student OR current student OR prospective student e. Is not an athletic event AND is not a school-sanctioned event
	r	1. Bullied someone. Bullying means: a. Severe OR pervasive b. Physical act or conduct OR verbal act or conduct OR written communication OR email, text message, or other electronic communication c. Directed toward one or more students d. Has the effect OR can reasonably be predicted to have the effect of at least one of the following:

		i. Making a reasonable student fear harm to themselves or their property ii. Making a reasonable student experience a substantially harmful effect on their physical or mental health iii. Substantially interfering with a reasonable student's academic performance iv. Substantially interfering with a reasonable student's ability to participate in or benefit from the school's services, activities or privileges
48900.2		1. Sexually harassed another person. Sexual harassment means: a. Unwelcome sexual advances OR requests for sexual favors OR other verbal conduct of a sexual nature OR other visual conduct of a sexual nature OR physical conduct of a sexual nature b. From or in the educational setting c. Considered by a reasonable student of the same age and gender to be: i. Sufficiently severe OR sufficiently pervasive ii. To have a negative impact on the victim's academic performance OR create an intimidating, hostile, or offensive educational environment 2. Accused student is in grades 4 through 12
48900.3		1. Caused an act of hate violence OR threatened to cause an act of hate violence OR participated in an act of hate violence. Hate violence means: Option 1 a. Uses force OR threat of force b. To willfully injure OR intimidate OR interfere with OR oppress OR threaten c. Another person d. In the free enjoyment OR exercise of a legal right e. Because of the person's actual or perceived identity Option 2 h. Knowingly i. Defaces OR damages OR destroys j. The property k. Of another person l. For the purpose of intimidating OR interfering with m. The free enjoyment OR exercise of a legal right n. Because of the person's actual or perceived identity o. Accused student is in grades 4 through 12
48900.4		1. Intentionally engaged in 2. Harassment OR threats OR intimidation 3. Directed against school staff OR students 4. That is severe OR pervasive 5. To have the actual AND reasonably expected effect of 6. Materially disrupting classwork AND creating substantial disorder AND invading the rights of school staff or students

	7. By creating an intimidating educational environment OR by creating a hostile educational environment 8. Accused student is in grades 4 through 12
48900.7	1. Student made terroristic threats. A terroristic threat means: a. Written statement OR verbal statement that b. Willfully c. Threatens to commit a crime d. That will result in death OR great bodily injury OR property damage in excess of $1,000 e. With the specific intent that the statement is taken as a threat even if there is no intent to actually carrying it out f. Statement must be so clear AND unconditional AND immediate AND specific to communicate to the threatened person that the threat is real g. Causing the person to reasonably be in fear for their safety OR the safety of others OR the safety of school district property OR personal property 2. Against school staff AND/OR school property

48915	(a)(1)(A)	1. Caused 2. Serious physical injury 3. To another person 4. Except in self-defense
	(a)(1)(B)	1. Possession 2. Of any knife OR other dangerous object 3. Of no reasonable use to the pupil
	(a)(1)(C)	1. Unlawful possession 2. Of any controlled substance listed in Chapter 2 of Division 10 of the Health and Safety Code 3. Except for the first possession of less than one ounce of marijuana OR prescribed over-the-counter medication
	(a)(1)(D)	Robbery or extortion. *Note: the Education Code does not include elements of robbery or extortion, so these definitions come from the California Penal Code.* Robbery (Penal Code Section 211) 1. Taking possession 2. Of another person's property 3. From their person OR immediate area 4. Against their will 5. Using force or fear. Extortion (Penal Code Section 518) 1. Obtaining another person's 2. Property OR action

		3. Through force OR fear
	(a)(1)(E)	Assault or Battery *Note: The Education Code uses penal code definitions for assault and battery.* Assault (Penal Code Section 240) 1. An unlawful attempt 2. And present ability 3. To commit violent injury 4. On the person of another Battery (Penal Code Section 242) 1. Willful 2. And unlawful 3. Use of force OR violence 4. Upon the person of another
	c(1)	1. Possessing OR selling OR providing 2. A firearm (not an imitation firearm) 3. Possession must be: a. Confirmed by a school employee b. Without written permission from a certificated school employee
	c(2)	Brandishing a knife *Note: This definition comes from Penal Code Section 417(a)(1)* 1. Drawing OR exhibiting OR using a knife 2. In a threatening OR angry OR rude manner 3. Except in self-defense
	c(3)	1. Unlawfully selling 2. A controlled substance listed in Chapter 2 of Division 10 of the Health and Safety Code
	c(4)	Committing or trying to commit a sexual assault or sexual battery *Note: The Education Code uses penal code definitions for sexual assault and sexual battery* Sexual assault (Penal Code Sections 261, 266c, 286, 287, 288, or 289) can include any of the following: 1. Rape 2. Sodomy 3. Forced oral copulation 4. Lewd or lascivious acts with a child under the age of 14 Sexual battery (Penal Code Section 243.4) 1. Unlawfully touching 2. An intimate part 3. Of another person

		4. Against the will of the other person 5. For the purpose of sexual arousal OR gratification OR abuse
	c(5)	1. Possession 2. Of an explosive (defined as a bomb, grenade, rocket with more than 4 ounces of propellant, missile with a charge of more than ¼ ounce, or any weapon other than a shotgun with a barrel of more than ½ inch) 3. Except for devices that are neither designed or redesigned as a weapon (such as fireworks)

Expulsion Compliance Tracker

How to use the Expulsion Compliance Tracker:

Review the checklist below to make sure that each box can be checked. If you cannot check a box, the expulsion is not legal for that reason.

Substantive Requirements		
✓	Description of Requirement	Notes
☐	Refer to the **Elements Chart** to ensure that the violation is listed in Sections 48900 or 48915 of the Education Code.	
	The violation is (choose one): ☐ **Discretionary** ☐ **Medium discretionary** ☐ **Zero tolerance**	
☐	Refer to the **Elements Chart** to ensure that the school can demonstrate evidence of all elements of the violation.	
☐	The violation took place either (1) at school OR (2) at a school-related activity (for example, a school dance or school football game) OR (3) going directly to or coming directly from school or a school-related activity.	
☐	For discretionary and medium-discretionary violations, the district can prove **secondary findings** by showing that either (1) they attempted other means of correction or (2) the student poses a continuing danger.	

Procedural Requirements		
✓	Description of Requirement	Notes
☐	Refer to the **Suspension Compliance Tracker** from Chapter 3 to check that the school followed all required procedures for suspension.	
☐	Refer to the **Extension of Suspension Compliance Tracker** from Chapter 4 to check that the school followed all required procedures for extension of suspension (if applicable).	

☐	If an MDR was required, refer to the **MDR Compliance Tracker** from Chapter 6 to check that the school followed all required procedures for the MDR.	
☐	The District scheduled the date for the expulsion hearing within 30 schooldays of the initial suspension (or the earliest date the administrator decided the student violated the Education Code).	
☐	The school granted the student's postponement request, if one was made.	
☐	The district provided written notice of the expulsion hearing at least 10 calendar days before hearing.	
☐	The district's notice included all required components: ♦ Date and location of hearing ♦ Specific facts and charges that are grounds for the expulsion recommendation ♦ Notice of the right to appear at the hearing in person ♦ Notice of the right to bring representation ♦ Notice of the right to inspect and obtain copies of all evidence ♦ Notice of the right to question witnesses ♦ Notice of the right to present evidence	

Supported Practice

*Use the **Elements Chart** to determine (1) if the violations below are discretionary, medium discretionary, or zero tolerance and (2) whether secondary findings are required.*

48915(a)(1)(B)	
☐ Discretionary ☐ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ☐ Required ☐ Not required

48900(a)(1)	
☐ Discretionary ☐ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ☐ Required ☐ Not required

48915(c)(2)	
☐ Discretionary ☐ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ☐ Required ☐ Not required

48915(a)(1)(D)	
☐ Discretionary ☐ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ☐ Required ☐ Not required

Independent Practice

Let's check in again with Lenny Pugg. When we last met with Lenny in Chapter 4, he had just been recommended for expulsion. Unfortunately, on April 21, 2025, the principal decided to extend Lenny's suspension, and he recommended Lenny for expulsion. The conference was 10 minutes long, and the principal extended the suspension only because Lenny has been recommended for expulsion.

Review the fact pattern and Lenny's records from the Independent Practice exercise in Chapter 4. Also, review the Expulsion Hearing Notice that Lenny's parents just received (found below). Lenny's parents have not requested to postpone the expulsion hearing and do not plan to.

1. Are Lenny's alleged Education Code violations discretionary, medium discretionary, or zero tolerance?

Lenny's violation – 48900.4	
☐ **Discretionary** ☐ **Medium discretionary** ☐ **Zero tolerance**	**Secondary findings are:** ☐ **Required** ☐ **Not required**

Lenny's violation – 48915(a)(1)(B)	
☐ **Discretionary** ☐ **Medium discretionary** ☐ **Zero tolerance**	**Secondary findings are:** ☐ **Required** ☐ **Not required**

Lenny's violation – 48915(c)(2)	
☐ **Discretionary** ☐ **Medium discretionary** ☐ **Zero tolerance**	**Secondary findings are:** ☐ **Required** ☐ **Not required**

2. For Lenny's discretionary or medium discretionary violations, argue why: (1) other means of correction are appropriate for Lenny; and (2) Lenny does not pose a continuing "danger."

Other means of correction

Continuing "danger"

3. Answer the following questions regarding the timeline for Lenny's discipline. Assume there are no holidays or breaks during the applicable time.

Timeline Questions	Yes?	No?
Was the extension of suspension conference held within the required timeframe?		
Did the expulsion notice contain all required components?		
Is the expulsion hearing scheduled within the required timeframe?		

Notice of Expulsion Recommendation

April 21, 2025

Han and Gilbert Pugg
123 Ziggy Street
Neighborhood City, California 54333

RE: Lenny Pugg
DOB: 9/21/2016
School: Neighborhood Elementary School

Dear Mr. and Mr. Pugg:

The principal of Neighborhood Elementary School has recommended the expulsion of Lenny Pugg from City Unified School District for engaging in behavior described in Education Code Sections 48900.4, 48915(a)(1)(B), and 48915(c)(2). The allegation is that:

> On April 11, 2025, during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

In order that you and Lenny may be provided an opportunity to participate in the discussion of the case, we invite you to attend an Expulsion Hearing, which has been scheduled as follows:

> DATE: Friday, May 30, 2025
> TIME: 8:30 am
> PLACE: City Unified School District Headquarters

Prior to the hearing, you may request from this office copies of the written materials concerning the student's case which are to be used at hearing. Otherwise, they will be provided to you when you arrive at our office.

During the hearing, you will have the opportunity to challenge and question any witness(es) who may testify at the hearing; dispute any other evidence; offer testimony; submit written documents; and introduce other pertinent evidentiary material on your student's behalf, including witness(es). You may also choose to be represented by an attorney or non-attorney advisor.

If, as a result of this hearing, the City Unified School District Board of Education expels your child, and you wish to enroll them in another district, you will be required by State law to advise that district of your child's expulsion from this district.

State law requires that you be sent notification of the hearing at least ten days prior to the date the hearing is scheduled. If you wish to postpone the hearing as scheduled, you are to make your request in writing. If this is not done, the hearing will take place as scheduled.

Please call (555) 555-5555 to let us know whether or not you plan to attend the hearing or if you have any questions concerning the information above.

Sincerely,



Coco Guevara, Superintendent of City Unified School District

Answer Key

Supported Practice

48915(a)(1)(B)	
☐ Discretionary ✓ Medium discretionary ☐ Zero tolerance	Secondary findings are: ✓ Required ☐ Not required

48900(a)(1)	
✓ Discretionary ☐ Medium discretionary ☐ Zero tolerance	Secondary findings are: ✓ Required ☐ Not required

48915(c)(2)	
☐ Discretionary ☐ Medium discretionary ✓ Zero tolerance	Secondary findings are: ☐ Required ✓ Not required

48915(a)(1)(D)	
☐ Discretionary ✓ Medium discretionary ☐ Zero tolerance	Secondary findings are: ✓ Required ☐ Not required

Independent Practice

1. Are Lenny's alleged Education Code violations discretionary, medium discretionary, or zero tolerance?

Lenny's violation – 48900.4	
✓ Discretionary ☐ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ✓ Required ☐ Not required

Lenny's violation – 48915(a)(1)(B)	
☐ Discretionary ✓ Medium discretionary ☐ Zero tolerance	**Secondary findings are:** ✓ Required ☐ Not required

Lenny's violation – 48915(c)(2)	
☐ Discretionary ☐ Medium discretionary ✓ Zero tolerance	**Secondary findings are:** ☐ Required ✓ Not required

2. For Lenny's discretionary or medium discretionary violations, argue why: (1) other means of correction are appropriate for Lenny; and (2) Lenny does not pose a continuing "danger."

Other means of correction

Other means of correction are appropriate for Lenny because:

- School hasn't yet tried: holding a conference with Lenny and his parents, referring Lenny to a counselor, psychologist, or social worker, developing a Behavior Intervention Plan,

referring Lenny for more assessments or making changes to his IEP, using a Restorative Justice or PBIS approach, referring him to an after-school program that focuses on Lenny's social emotional needs.

- Lenny only has one previous discipline incident – in the previous incident, the school district also went straight to suspension instead of trying other means of correction.
- This incident happened because Lenny was being bullied, and the school hasn't yet addressed the bullying. Addressing the bullying through Restorative Justice or peer mediation is another means of correction the school district can use.
- Lenny is only in third grade and could benefit from additional instruction in social skills and conflict resolution.

Continuing "danger"

Lenny does not pose a continuing "danger" to himself or others because:

- The school district must look at Lenny's entire discipline history to decide whether he poses a continuing "danger," not just this incident. Lenny has only one other discipline incident in his records. Both incidents happened because Lenny is being bullied. He is not dangerous – he needs support from school to deal with bullying.
- Lenny's teacher says he is "thoughtful and kind." She works with him every day, and she has not expressed concern that he is "dangerous."
- The police officer didn't cite Lenny. The police officer believed that Lenny was not going to use the knife – he was only showing it to defend himself and stop the bullies.

3. Answer the following questions regarding the timeline for Lenny's discipline.

Timeline Questions	Yes?	No?
Was the extension of suspension conference held within the required timeframe? *No. The extension of suspension conference must be held before the original suspension ends, or in this case within 5 schooldays of the original April 11, 2025, suspension. That makes the deadline for this conference April 18, 2025, so the conference on April 21, 2025, was late.*		X
Did the expulsion notice contain all required components?	✓	
Is the expulsion hearing scheduled within the required timeframe? *No. The expulsion hearing must be scheduled within 30 schooldays of the original suspension, which is 30 schooldays from April 11, 2025. That means the deadline for the hearing is May 23, 2025, making a hearing on May 30, 2025, late by 5 schooldays.*		X

Chapter 6
Manifestation Determination Reviews

Chapter 6 Roadmap

In this chapter, you will learn how to determine whether the school district must convene a ***manifestation determination review*** *("MDR") before the expulsion hearing. You will learn what an MDR is, how to prepare for an MDR, and what arguments related to disability may be helpful for you to use at an expulsion hearing, even if the outcome of the MDR is not in the student's favor.*

Study Guide

- What is an MDR?
  - What two questions does every MDR team need to answer?
  - What rights does a disabled student have in an MDR?
- Do these protections only apply for students with an IEP?
- How do I prepare for an MDR?

Toolkit Materials

- Chapter 6 Glossary
- MDR Compliance Tracker
- MDR Preparation Chart

Supported Practice

Identify types of education records you could use to support your arguments at an MDR.

Independent Practice

Practice filling out an MDR Preparation Chart for Lenny Pugg.

Study Guide

What is an MDR?

The **Individuals with Disabilities Education Act** (IDEA) and **Section 504 of the Rehabilitation Act** are **federal laws** that prohibit school districts from expelling disabled students, or even giving them repeated shorter suspensions, for behavior that is a manifestation of their disabilities.[46] Under these laws, school districts must hold a "manifestation determination review," or "MDR," before expelling the student.

An MDR is a meeting that school districts must hold within 10 school days of deciding to change a disabled student's placement due to a school rule violation.[47] A "change of placement" occurs when a district removes a student from school for discipline reasons for more than ten schooldays.[48] An expulsion is therefore a change of placement.

What two questions does every MDR team need to answer?

The purpose of the MDR is to determine if the student's behavior was a manifestation of their disability. To make this determination, the MDR team must answer two questions:

1. Was the behavior caused by or directly and substantially related to the student's disability?
2. Was the behavior caused by the district's **failure to implement** the student's IEP?

These questions are the same whether the student has an IEP or a Section 504 plan.[49] If the answer to either of the questions is "yes," the behavior is a manifestation of the student's disability. The school cannot expel the student and must instead return them to their previous school unless the guardian and school agree on a new placement. If the answer to both questions is "no," then the school can move forward with the expulsion process.[50]

What rights does a disabled student have in an MDR?

Description of Right	Citation
The right to receive a procedural safeguards packet on the day the school district decides to refer the student for expulsion.	34 C.F.R. Section 300.530(h); 34 C.F.R. Section 300.504(a)(3).
The right to receive a written invitation to the MDR with enough notice that the guardian has an opportunity to attend.	34 C.F.R. Sections 300.322(a)(1), 300.327, 300.501(c)(1).
The right to continue receiving special education services after a change in placement due to the expulsion referral, even if those services are provided in an alternative setting.	20 U.S.C. Section 1415(k)(1)(D).
The right to a timely MDR within 10 schooldays of the expulsion recommendation.	20 U.S.C. Section 1415(k)(1); 34 C.F.R. Section 300.536.

[46] 20 U.S.C. Section 1415(k).
[47] 34 Code of Federal Regulations Section 300.530(e).
[48] 34 Code of Federal Regulations Section 300.536.
[49] https://www.ed.gov/sites/ed/files/about/offices/list/ocr/docs/504-discipline-guidance.pdf.
[50] 20 United States Code Section 1415(k)(1)(C).

The right to an MDR with all required team members including the guardian, general education teacher, and any *relevant* members of the student's IEP team (as determined by the guardian and the school).	34 Code of Federal Regulations Sections 300.530(e)(1); 300.321(a)(2), (6).
The right to have each member of the MDR team review all relevant information during the MDR, so that the MDR team can analyze the student's behavior across settings. Relevant information may include the student's IEP, teacher observations, and any other relevant information provided by the caregivers.	34 C.F.R. Section 300.530(e).
The right to an MDR that is not predetermined. Each member must enter the meeting with an open mind and the school must meaningfully consider guardian input.	*Deal v. Hamilton County Bd. Of Ed.* (6th Cir. 2004) 392 F.3d 840, 858.
The right to an appropriate **Interim Alternative Educational Setting** ("IAES") until the expulsion hearing. The IEP team chooses the IAES, and the IAES must allow the student to participate in the general education curriculum and progress toward their goals.	34 C.F.R. Section 300.530(c)-(d); 34 C.F.R. Section 300.531.
The student has the right to appeal the MDR team's decision if they disagree with the outcome or if the school district fails to hold an MDR at all. This appeal is called an Expedited Due Process Complaint. (see Expedited Due Process & You manual.)	20 U.S.C. Section 1415(j); 34 C.F.R. Section 300.516(a).

Do these protections only apply for students with IEPs?

No, these protections do not apply only for students with IEPs. Even if the student does not yet have an IEP or 504 Plan, the school district is required to hold an MDR if the school knew or was on notice of the student's possible disability.[51] This is called **basis of knowledge**. If there is a basis of knowledge, you should tell the district this and ask them to hold an MDR.

Defining Basis of Knowledge

A school district has a basis of knowledge if, *before the behavior leading to discipline occurred:*

1. The guardian expressed concern in writing to a school administrator or teacher that the student might need special education services;
2. The guardian asked for a **special education assessment** verbally or in writing; or
3. A teacher or other staff expressed specific concerns to the school's special education director or another supervisor about the student's pattern of behavior. Student records, such as discipline logs, attendance records, and report cards, can provide proof of staff expressing these concerns.[52]

Exceptions to Basis of Knowledge

A school district will *not* be deemed as having knowledge if:

1. The guardian did not allow the student to be assessed for special education;

[51] 20 United States Code Section 1415(k)(5)(A).
[52] 20 United States Code Section 1415(k)(5)(B).

2. The guardian refused an IEP when the student was eligible; or
3. The student was assessed, and the school district found they did not qualify for an IEP.[53]

If the school district does not have a basis of knowledge, then the school may discipline the student in the same way it disciplines non-disabled students.[54]

However, you can still ask that the school assess the student for an IEP now, even after the expulsion recommendation, and you can ask that the assessment be "expedited." The law does not provide a timeline for expedited assessments, but you can argue that the timeline must be meaningfully shorter than that for standard assessments, which is 60 days. During the assessment, the school district can require the student to attend an alternative school.

How do I prepare for an MDR?

Before supporting a student at an MDR, you should prepare by filling out the chart in the Chapter 6 Toolkit. Here are more tips on preparing for an MDR:

- Always audio record the MDR. In California, parents have the right to audio record an MDR, as long as they provide the school district 24 hours advance written notice.
- Meet with the parent and student before the MDR to explain to them the legal standard for the MDR and work with them to outline the arguments you will make at the MDR.
- Review the student's records before the MDR to find quotes that show the behavior was a manifestation of their disabilities. You are likely to find useful quotes in the student's **IEP goals**, **IEP present levels**, IEP assessments, Behavior Intervention Plan, IEP meeting notes, **IEP service logs**, and previous discipline history.
- Early on, make sure team members agree on the student's diagnoses and symptoms.
- Use the **DSM-V** and other sources to show what the symptoms of the student's diagnosed disabilities are.[55] You can then prepare a handout to give to the MDR team that documents these symptoms and links them to the alleged behavior incident.
- During the MDR, ask each team member which of the student's records they reviewed before the meeting. You can also ask each team member to give an opinion on if the behavior is a manifestation and ask them to justify their position with evidence.
- If you cannot win the MDR:
    - Create a good record for due process by asking school staff lots of questions about their reasoning and noting why the parent and student disagree with the decision.
    - Advocate for an appropriate IAES for the student.

[53] 20 United States Code Section 1415(k)(5)(C).
[54] 20 United States Code Section 1415(k)(5)(D).
[55] If the student has received DSM-V diagnoses, you should always confirm with them and their guardian that they believe these diagnoses are accurate and complete before using them in advocacy. Note also that some DSM-V diagnoses, such as "conduct disorder" and "oppositional defiant disorder," are controversial, stigmatizing, and harmful labels that are disproportionately given to students of color, especially Black students. We do not use these labels in our advocacy.

Chapter 6 Toolkit

Chapter 6 Glossary

Basis of Knowledge	The school knew or was on notice that the student might be disabled or need special education services. In these cases, students receive the IDEA's disciplinary protections, even if they do not yet have an IEP.
Diagnostic and Statistical Manual of Mental Illnesses	The DSM-V is the latest edition of the American Psychiatric Association's professional reference book on mental health conditions.
Failure to Implement	Refers to a district violating the IDEA by not delivering a required part of the IEP, such as not providing agreed-upon services or accommodations.
Federal Laws	Laws that are created by the United States government. Everyone must follow federal laws, and state laws cannot conflict with federal laws.
IEP Goals	Statements in a student's IEP that outline what a disabled student is expected to learn and achieve within a year. They must be individualized to address a student's unique needs and directly linked to their performance in school, academically or behaviorally.
IEP Present Levels	Describe a student's current abilities, strengths, and areas where they need support, based on data and observations.
IEP Service Logs	Where IEP service providers are expected to track all special education services provided to a student, as required by their IEP.
Individuals with Disabilities Education Act ("IDEA")	A federal law requiring schools to provide a free and appropriate education, including special education and related services, to eligible students.
Interim Alternative Educational Setting ("IAES")	A temporary placement for a disabled student who has been removed from their original placement as a disciplinary measure (e.g., non-public school, independent study).
Manifestation Determination Review ("MDR")	A meeting held after a student with an IEP or 504 plan has experienced a change in placement due to disciplinary removal. The MDR team determines whether the student's behavior is caused by their disability or if the behavior is a result of the school's failure to implement their IEP or 504 plan.
Section 504 of the Rehabilitation Act	A federal civil rights law that prohibits disability discrimination in any program that receives federal funds. It ensures that disabled students have equal access to opportunities and are not excluded because of disability.
Special Education Assessments	Tests and observations that evaluate a student with disabilities to determine if they require special education services.

MDR Compliance Tracker

Review the checklist to make sure that each box can be checked. If you cannot check a box, the MDR is not legal for that reason.

MDR Requirements		
✓	Description of Requirement	Notes
☐	Caregiver received a procedural safeguards packet on the day the school district referred the student for expulsion.	
☐	The school district provided a written invitation to the MDR with sufficient notice for the caregiver to attend.	
☐	The student received special education services after the expulsion recommendation.	
☐	The MDR was held within 10 schooldays of the expulsion referral.	
☐	All required team members attended the MDR, including: 1. The caregiver 2. The general education teacher 3. Any relevant members of the student's IEP team (as determined by the guardian and the school)	
☐	Each member of the MDR team reviewed all relevant information.	
☐	The MDR team's decision was not predetermined (this means the team had an open mind and considered the caregiver's input).	
☐	The student was placed an appropriate IAES.	
☐	The IEP team selected the student's IAES.	

MDR Preparation Chart

Student's Name: _____

Date of MDR: _____

Location of MDR: _____

Are all the relevant IEP team members present at the MDR?

Check off whether each team member listed below is at the MDR. If any team member is missing, make sure to tell the school district that the caregiver wants that person to attend.

- ☐ School psychologist, name: _____
- ☐ General education teacher, name: _____
- ☐ Special education teacher, name: _____
- ☐ School district representative, name: _____
- ☐ Student's IEP service provider(s), name(s): _____
  _____
- ☐ Caregiver, name: _____

Other optional MDR team members:

- ☐ Doctor, name: _____
- ☐ Private therapist, name: _____
- ☐ Attorney for student, name: _____
- ☐ Attorney for school district, name: _____
- ☐ Other: _____

What does the student want to happen at the MDR?

For example, does the student want to go back to the school they have been attending, or do they want to transfer somewhere else? Do they want more IEP services?

- ☐ _____
- ☐ _____
- ☐ _____

What is the behavior incident that led to the expulsion referral?

What specific behavior is the school accusing the student of?

_____

_____

_____

Research Checklist

Beginning preparation:

- ☐ Request student's education and medical records including:
  - Individualized Education Plan (IEP) or Section 504 Plan
  - Special Education Assessments
  - Functional Behavior Assessment (FBA)
  - Behavior Intervention Plan (BIP)
  - Disciplinary Records & Notices
  - Discipline Referral Packet
  - Service Logs
  - School staff's notes
- ☐ Investigate the behavioral incident being reviewed so you have a clear, detailed understanding of the incident (who, what, when, where, why):
  - Review the discipline referral.
  - Ask your student to tell you about what happened.
  - Learn what was happening before the incident. This could show whether an existing BIP was followed.

To show the behavior was caused by disability:

- ☐ Review the IEP or 504 Plan:
  - Does the plan have behavior goals that are related to the behaviors the student is accused of?
- ☐ Research
  - Using reputable sources, research your student's disability symptoms.
  - Speak with student's service providers (e.g. therapist, doctor) and ask them to attend and participate in the MDR or write a letter detailing the student's disability and how it manifests
  - Diagnosis Letter – speak with your doctor, your records may be online.
- ☐ Reflect
  - Have their behaviors improved, gotten worse, or stayed the same?
  - If your student has prescribed medication, does it seem to be working? Are there side effects that might impact your student's behavior?

To show the behavior was caused by the school's failure to implement the IEP or 504 Plan:

- ☐ Review the IEP or 504 Plan to determine whether the school is implementing the IEP or 504 Plan. For example, has a student's aide been absent? Is the student being provided with the correct hours of services?
- ☐ Review the BIP to determine if the school has been following the BIP.
- ☐ Reflect - What would have happened in this incident if the school implemented the BIP and IEP or 504 Plan correctly?

MDR Question 1: Was the behavior caused by or directly and substantially related to the student's disabilities?

Evidence Behavior was caused by disability	**Source** *(what education record or other source proves your argument?)*
Overall Arguments *What are the symptoms of the student's disabilities? Check the DSM-V and the student's education records. Include all diagnosed disabilities, not just the student's IEP eligibility category.* *How did the student's disability symptoms cause the incident? Cite specific examples if possible.*	
Student's History of Behaviors *Similar incidents in discipline record:* *Notes documenting similar incidents (school staff and caregiver's concerns):*	
Evidence from the IEP and Assessment Reports *District assessment data related to the incident:*	

IEP goals related to the incident: *IEP present levels or meeting notes related to the incident:* *IEP services related to the incident:*	

Now, in one sentence, summarize your argument for why the behavior was caused by or directly and substantially related to the student's disabilities: _____

_____

_____

MDR Question 2: Was the behavior directly caused by the school district's failure to implement the student's IEP?

Evidence Behavior was caused by the school's failure to implement the IEP	**Source** *(what education record or other source proves your argument?)*
List the student's IEP service minutes for each service: *Check the IEP service logs. Did the school district provide all the service minutes required in the IEP?*	

Check the student's BIP, if they have one. What is the school district required to do for the student during a behavior incident? *Check the school's description of the behavior incident. Did the school take the steps required in the BIP?* *Check the student's IEP accommodations. Has the school been providing these accommodations?*	

Now, in one sentence, summarize your argument for why the behavior was caused by or directly and substantially related to the student's disabilities: _____

_____

_____

Example questions to ask school staff during the MDR:

1. What disability symptoms does my student experience at school?
2. Have there been any behavioral incidents that the school has not documented in their cumulative file? What were those incidents?
3. Did school staff follow my student's Behavior Intervention Plan? How?
4. Has my student received the services or accommodations described in their IEP?

Additional questions for school staff:

1. _____
2. _____
3. _____
4. _____
5. _____

Supported Practice

Review the hypothetical, student information, and sample research below. Highlight the important details. Then, using this information, review the student's discipline log and fill in the column describing how the student's behaviors may connect to her disabilities.

1. Hypothetical

You are Jamie's advocate. Jamie has recently experienced a change in placement after being referred for expulsion on March 17, 2025. Use your research to identify situations in her record where she exhibits disability symptoms and link these symptoms to the incident at hand.

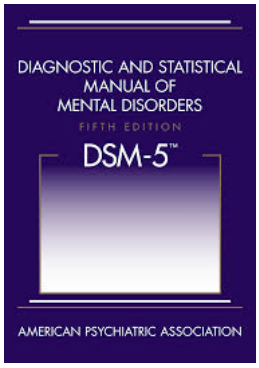
2. Student Information

Jamie is a 6-year-old student in kindergarten. She was recently diagnosed with ADHD by her family doctor. Jamie does not have an IEP yet.

You believe that the school district had knowledge of Jamie's disability and her need for special education because she has exhibited challenging behaviors in school since she first began.

3. Research

Read the chart below and highlight relevant portions.

Research Findings	Source
People with ADHD may experience a pattern of: ♦ Inattention: Difficulty paying attention ♦ Hyperactivity: Showing too much energy or moving and talking too much ♦ Impulsivity: Acting without thinking or having difficulty with self-control.	National Institute for Mental Health https://www.nimh.nih.gov/health/publications/attention-deficit-hyperactivity-disorder-what-you-need-to-know
Behaviors could look like: ♦ Not paying close attention to details (e.g., careless mistakes in schoolwork) ♦ Difficulty sustaining attention in tasks or play activities. ♦ Forgetful, does not follow through with instructions or finish work. ♦ Does not listen when spoken to (meaning, their mind is elsewhere). ♦ Avoids tasks that require sustained mental effort (e.g., schoolwork). ♦ Loses things. ♦ Easily distracted. ♦ Fidget toys, taps feet, squirms n seat. ♦ Leaves seat frequently. ♦ Restless, runs around/climbs in inappropriate situations. ♦ Unable to play or do work quietly. ♦ Talks excessively.	DSM-V, pages 59-60 

♦ Blurts out thoughts/answers. ♦ Difficulty waiting for their turn. ♦ Interrupts others.	

4. Discipline Log

Note: In a real case, before analyzing if the behavior connects to disability symptoms, we would confer with the student to confirm the behavior logs are accurate and thorough (i.e. confirming the logs do not omit triggering events that happened before the behavior). Here, for the sake of the exercise, you can assume all log entries accurately describe Jamie's behavior and thoroughly describe any triggers.

Date	**Behavior** *Highlight any behaviors that connect to her disability*	**Your Notes** *How does this behavior connect to her disability symptoms?*
12/13/2024	During independent worktime (practicing handwriting letters), Jamie laid on the floor and rolled around rather than practice her letters. On her third reminder to return to her desk, Jamie stood up and threw her workbook at the window, causing it to shatter. **Consequence:** 5-day suspension.	
12/02/2024	During the lesson, Jamie repeatedly flipped her plastic water bottle on the table. After being asked three times to stop flipping the water bottle on the table, Mr. Jacob took the water bottle off the student's desk and told Jamie that she could have it back at the end of class. Afterward, Jamie suddenly stood up and yelled, "Mr. Jacob your class is stinks!" and ran out of the classroom. Jamie did not return to class and the main office was called to locate her. **Consequence**: Jamie was referred to in-school suspension for 3 days.	
11/12/2024	Jamie kept interrupting her peers during small group work. She randomly yelled random phrases (skibidi toilet, crashing out) and barked, meowed, bawked, and mooed. Despite being reminded multiple times to stop interrupting her peers, Jamie continued to speak out of turn. **Consequence:** Jamie was sent to in-school suspension for the rest of the day.	
10/15/2024	Jamie ran out of the line and sprinted down the hallway on the way to art class. Despite being told to stop running and return to the group, she did not stop sprinting until she reached the Art classroom. **Consequence:** Jamie was sent to the front office for the entire Art class period.	
09/05/2024	During independent math worksheet time, Jamie began drawing on her desk with her crayons. When asked to stop, she continued to draw on the desk. **Consequence:** Suspension for 1 day.	

Independent Practice

Use the records and information you have received for Lenny so far to fill out the MDR Prep Chart for Question 1, arguing that the April 11, 2025, incident was caused by Lenny's ADHD diagnosis. You do not have access to all parts of Lenny's special education records, so use what you have access to. You can use the research on ADHD symptoms from the Supported Practice above and also add your own.

Remember, Lenny has been accused of bringing a pocketknife and a bullet shell to school and showing the pocketknife, unopened, to a group of kids who were surrounding him while laughing and oinking. The group included a kid who had been bullying him before.

MDR Question 1: Was the behavior caused by or directly and substantially related to the student's disabilities?

Evidence Behavior was caused by disability	**Source** *(what education record or other source proves your argument?)*
What are the symptoms of the student's disabilities? Check the DSM-V and the student's education records. Include all diagnosed disabilities, not just the student's IEP eligibility category. *How did the student's disability symptoms cause the incident? Cite specific examples if possible.*	
Student's History of Behaviors *Similar incidents in discipline record:* *Notes documenting similar incidents (school staff and caregiver's concerns):*	

Evidence from the IEP and Assessment Reports *District assessment data related to the incident:* *IEP goals related to the incident:* *IEP present levels or meeting notes related to the incident:* *IEP services related to the incident:*	

Now, in one sentence, summarize your argument for why the behavior was caused by or directly and substantially related to the student's disabilities: _____

_____

_____

Answer Key

Supported Practice

1. Hypothetical

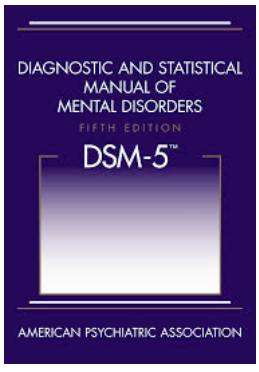
Jamie has recently experienced a change in placement after being referred for expulsion on March 17, 2025. Jamie's advocate (you) is preparing for her MDR. Your goal is to use your research to identify situations in her record where she exhibits disability and link these behaviors to the incident at hand.

2. Student Information

Jamie is a 6-year-old student in kindergarten. She was recently diagnosed with ADHD by her family doctor. Jamie does not have an IEP yet.

You as her advocate believe that the school district had knowledge of Jamie's disability and her need for special education because she has exhibited challenging behaviors in school since she first began. Your job now is to read Jamie's records and identify statements describing disability related behaviors.

3. Research

Research Findings	Source
People with ADHD may experience a pattern of: ♦ Inattention: Difficulty paying attention ♦ Hyperactivity: Showing too much energy or moving and talking too much ♦ Impulsivity: Acting without thinking or having difficulty with self-control. Difficulty controlling big feelings, like anger, fear, or sadness.	National Institute for Mental Health https://www.nimh.nih.gov/health/publications/attention-deficit-hyperactivity-disorder-what-you-need-to-know Child Mind Institute https://childmind.org/article/adhd-behavior-problems/#:~:text=Quick%20Read,themselves%20when%20they%20get%20frustrated.
Behaviors could look like: ♦ Not paying close attention to details (e.g., careless mistakes in schoolwork) ♦ Difficulty sustaining attention in tasks or play activities. ♦ Forgetful, does not follow through with instructions or finish work. ♦ Does not listen when spoken to (meaning, their mind is elsewhere). ♦ Avoids tasks that require sustained mental effort (e.g., schoolwork). ♦ Loses things.	DSM-V, pages 59-60 

♦ Easily distracted. ♦ Fidgets, taps feet, squirms n seat. ♦ Leaves seat frequently. ♦ Restless, runs around/climbs in inappropriate situations. ♦ Unable to play or do work quietly. ♦ Talks excessively. ♦ Blurts out thoughts/answers. ♦ Difficulty waiting for their turn. ♦ Interrupts others.	

4. Discipline Log

Date	**Behavior** *Highlight any behaviors that connect to her disability*	**Your Notes** *How does this behavior connect to her disability symptoms?*
12/13/2024	During independent worktime (practicing handwriting letters), Jamie laid on the floor and rolled around rather than practice her letters. On her third reminder to return to her desk, Jamie stood up and threw her workbook at the window, causing it to shatter. **Consequence:** 5-day suspension.	Inattention Hyperactivity Impulsivity
12/02/2024	During the lesson, Jamie repeatedly flipped her plastic water bottle on the table. After being asked three times to stop flipping the water bottle on the table, Mr. Jacob took the water bottle off the student's desk and told Jamie that she could have it back at the end of class. Afterward, Jamie suddenly stood up and yelled, "Mr. Jacob your class is stinks!" and ran out of the classroom. Jamie did not return to class and the main office was called to locate her. **Consequence**: Jamie was referred to in-school suspension for 3 days.	Inattention Hyperactivity
11/12/2024	Jamie kept interrupting her peers during small group work. She randomly yelled random phrases (skibidi toilet, crashing out) and barked, meowed, bawked, and mooed. Despite being reminded multiple times to stop interrupting her peers, Jamie continued to speak out of turn. **Consequence:** Jamie was sent to in-school suspension for the rest of the day.	Inattention Hyperactivity Impulsivity
10/15/2024	Jamie ran out of the line and sprinted down the hallway on the way to art class. Despite being told to stop running and return to the group, she did not stop sprinting until she reached the Art classroom. **Consequence:** Jamie was sent to the front office for the entire Art class period.	Hyperactivity Impulsivity

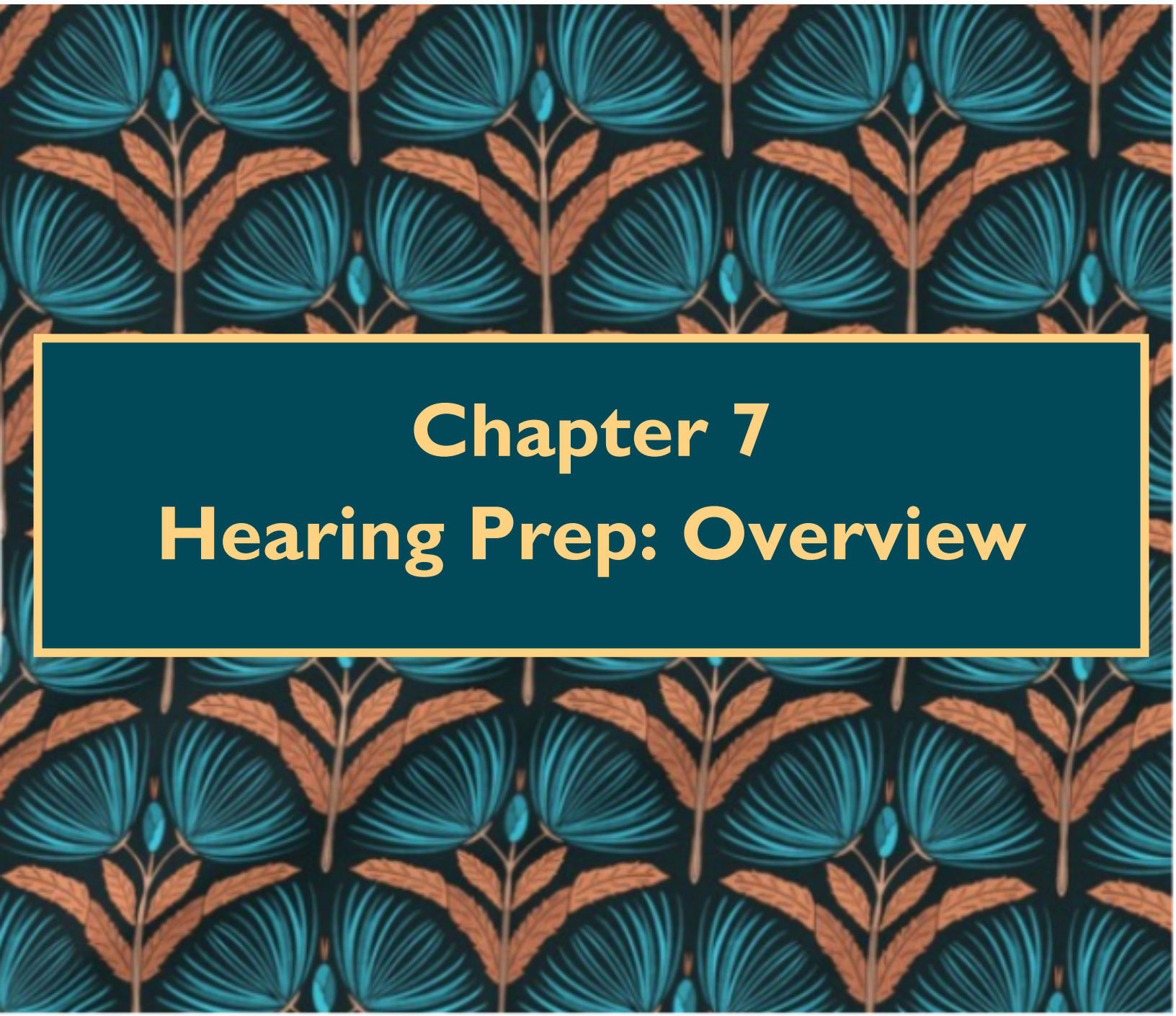
09/05/2024	During independent math worksheet time, Jamie began drawing on her desk with her crayons. When asked to stop, she continued to draw on the desk. **Consequence:** Suspension for 1 day.	Inattention

Independent Practice

Evidence Behavior was caused by disability	**Source** *(what education record or other source proves your argument?)*
What are the symptoms of the student's disabilities? Check the DSM-V and the student's education records. Include all diagnosed disabilities, not just the student's IEP eligibility category. Kids with ADHD may experience a pattern of: ♦ Inattention: Difficulty paying attention ♦ Hyperactivity: Showing too much energy or moving and talking too much ♦ Impulsivity: Acting without thinking or having difficulty with self-control. Difficulty controlling big feelings, like anger, fear, or sadness. *How did the student's disability symptoms cause the incident? Cite specific examples if possible.* Students with ADHD-Impulsive Type, like Lenny, often act without thinking or appreciating the consequences of their actions. In this incident, Lenny brought a knife to school to protect himself from a bully. While he never planned to use the knife, as shown by him never opening it, he didn't think about how even holding a small, closed pocketknife could get him trouble or scare other kids who were not his bullies.	National Institute for Mental Health https://www.nimh.nih.gov/health/publications/attention-deficit-hyperactivity-disorder-what-you-need-to-know Child Mind Institute https://childmind.org/article/adhd-behavior-problems/#:~:text=Quick%20Read,themselves%20when%20they%20get%20frustrated.
Student's History of Behaviors *Similar incidents in discipline record:* Just 10 days before this incident, Lenny was involved in a similar incident where he yelled at a student who was bullying him and said he was going to "get him." This incident was similar because it was also triggered by bullying, and Lenny's ADHD made it challenging for him to control his anger and fear, leading him to impulsively lash out. *Notes documenting similar incidents (school staff and caregiver's concerns):* His report card shows a big change in his behavior, where he became more withdrawn and distracted. This is because of the emotional impact of the bullying.	Discipline Log Report card

Evidence from the IEP and Assessment Reports	
District assessment data related to the incident: We don't have Lenny's assessment data.	
IEP goals related to the incident: We don't have Lenny's IEP goals.	
IEP present levels or meeting notes related to the incident: IEP meeting notes show that Lenny has been sent to the office a few times for impulsive behavior, but he always apologized after he had time to cool down. The notes also show that his teachers commented on impulsive behavior in class. The teacher also said he has trouble making friends and seems sad and withdrawn.	IEP meeting notes
IEP services related to the incident: We don't have access to Lenny's IEP services page. But since a Resource Specialist Program teacher and speech pathologist attended Lenny's IEP, we know he receives at least these services. We might be able to connect Lenny's speech needs to the incident—we could argue that he struggles to use language to advocate for himself with bullies, so that's why he brought the pocketknife.	IEP meeting notes

Now, in one sentence, summarize your argument for why the behavior was caused by or directly and substantially related to the student's disabilities: Lenny's records have shown that his ADHD impacts him in the classroom and in his social relationships, and these behaviors have become more apparent because of the bullying. Lenny's ADHD caused him to impulsively act on anger and fear that he could not control, leading to him bringing the small, closed pocketknife to school to protect himself,.



Chapter 7
Hearing Prep: Overview

Chapter 7 Roadmap

This chapter is different from the other chapters in this manual in that it does not ask you to learn and practice a skill. Rather, this chapter provides a roadmap for how to approach hearing preparation, including the structure of a hearing and an overview of all you should prepare in advance.

Study Guide

- What is the structure of an expulsion hearing?
- What are the steps to prepare for an expulsion hearing?
    - Step 1 (Chapter 8): Review records and check the expulsion packet for completeness
    - Step 2 (Chapter 9): Create your evidence chart
    - Step 3 (Chapter 10): Draft direct exam questions and prepare your witnesses
    - Step 4 (Chapter 11): Draft cross exam questions
    - Step 5 (Chapter 12): Draft opening statement and closing argument

Toolkit

- Chapter 7 Glossary

Study Guide

What is the structure of an expulsion hearing?

Knowing how an expulsion hearing typically runs, who will be there, what the layout of the room typically looks like, and what will happen during and after can help ease your nerves. The purpose of the hearing is for both parties to tell their version of events by presenting evidence about what happened and questioning witnesses who saw or investigated what happened. Remember, it is the school district's job to prove that the violation occurred and that the student can and should be expelled for committing that violation—that means your role is to cast doubt on the district's version of events, call into question the credibility of their witnesses and evidence, and argue that the law requires your student to remain in school.

Who Attends the Hearing?

You can expect for the following people to attend the expulsion hearing:

- The hearing panel
  This is the "jury" for the hearing. The panel is made up of three current or former school administrators (e.g., principals, assistant principals) or district school board members.
- A representative from the school district
  This is typically a district administrator who facilitates the expulsion hearing by asking questions of district and student witnesses and presents evidence to help the district make its case. This person should not be a member of the hearing panel. If this happens, you should note it out loud so you can bring it up on appeal, since it suggests that the hearing will not be fair to the student.
- A representative for the school
  This person is often an administrator (e.g., principal, assistant principal, dean, etc.) who will present the school's case against the student.
- Witnesses for the school district
  These may be students or staff who witnessed the incident or helped with the investigation. They are usually only in the hearing room when they are being asked to testify.
- The student (if appropriate)
  The student has the right to attend the expulsion hearing, but they are not required to. Some students feel strongly that they want to attend the expulsion hearing. Others, due to young age, disability needs, or trauma do not feel comfortable attending.
- The student's family/guardian(s)
  The student's parents have the right to attend the expulsion hearing. Some school districts also allow other family members, like siblings, to attend the hearing to support the student.

- Witnesses for the student
  The student has the right to invite their own witnesses, such as witnesses to the incident itself and witnesses who will talk about the student's character.

What are the steps to prepare for an expulsion hearing?

The idea of preparing to represent a student at an expulsion hearing can feel very overwhelming. It is helpful to break the preparation process down into steps, where each step builds on the other steps you have already completed.

First, you will familiarize yourself with the evidence and the theory of your case by: (1) reviewing records and checking the expulsion packet for completeness; and (2) creating your **evidence chart**. Then, you will prepare to present testimony and evidence to support your student's case by: (3) drafting **direct exam questions** and preparing your witnesses and (4) drafting **cross exam questions**. Lastly, you will synthesize the evidence and testimony to support your student's case by: (5) drafting an **opening statement** and **closing argument**.

Step 1 (Chapter 8): Review records and check the expulsion packet for completeness

Before writing any questions or gathering any evidence to support your student, you first need to familiarize yourself with the school district's evidence. In this step, you will review the student's records and check the school district's expulsion packet to see if they have provided enough evidence to prove their case.

Step 2 (Chapter 9): Create your evidence chart

In this step, you will deepen your familiarity with the school district's expulsion packet by creating an evidence chart where you pull important quotes from the packet and think through which witnesses can testify about each document. You will also chart the evidence that you plan to introduce on behalf of the student.

Step 3 (Chapter 10): Draft direct exam questions and prepare your witnesses

In this step, you will use your evidence chart to write direct examination questions for your witnesses and prepare them for testimony.

Step 4 (Chapter 11): Draft cross exam questions

In this step, you will use your evidence chart to write cross examination questions for the school district's witnesses.

Step 5 (Chapter 12): Draft opening statement and closing argument

In this step, you use your evidence chart to write an opening statement and closing argument.

Chapter 7 Toolkit

Chapter 7 Glossary

Closing Argument	The last section of the expulsion hearing where you make a verbal argument about why the school district has not proven that it can expel the student.
Cross Exam Questions	Questions you ask the school's witnesses to challenge the witness' testimony, credibility, or show the presence of bias.
Direct Exam Questions	Questions you ask your own witnesses to help show why the school district cannot expel your client, including what the witnesses saw happen during the incident and why expulsion is not appropriate for your student.
Evidence Chart	A way to organize the school district's evidence and your evidence by pulling out important quotes and identifying which witness you will question about which documents.
Opening Statement	The first part of the expulsion hearing or the portion of the hearing where student is permitted to make their case. Here is where you introduce the student, the issues, and preview the evidence.

Chapter 8
Step 1: Reviewing Records

Chapter 8 Roadmap

*In this chapter, you will learn how to request, organize, and review student records from a **cumulative file** and the **expulsion packet** to gather evidence and prepare arguments for an expulsion hearing. You will also practice analyzing an expulsion packet under the **hearsay only rule**.*

Study Guide

- What is a cumulative file?
  - What records are included in a cumulative file?
  - How can you request a student's cumulative file?
- What is an expulsion packet?
  - What documents might be included in an expulsion packet?
  - How can you request a student's expulsion packet?
  - What is the hearsay only rule?
  - When should you request missing documents from an expulsion packet?
- How should you organize and review education records and documents?
- What records should you review for an expulsion hearing?
- What other documents can you gather and use as evidence at a hearing?

Toolkit Materials

- Chapter 8 Glossary
- Sample authorization form
- Sample letter for requesting cumulative records
- Guide for reviewing and organizing evidence and records

Supported Practice

- *Practice the hearsay only rule*

Independent Practice

- *Review an expulsion packet for completeness and analyze under the hearsay only rule*

Study Guide

What is a cumulative file?

The law requires schools to keep permanent records for each of their students. This is called the "cumulative file," and it includes *all* documents related to the student's education.

What records are included in a cumulative file?

Documents in a cumulative file can include progress reports, report cards, transcripts, attendance records, discipline logs, suspension notices, immunization records, enrollment forms, contact logs documenting communication between staff members and between school and home, IEPs, 504 Plans, special education assessments, and special education service logs. Many of these documents are important as you build your expulsion defense case. For this reason, requesting a copy of the student's cumulative file is a necessary first step in each case.

How can you request a student's cumulative file?

Guardians can make a written request for copies of their student's cumulative file at any time, and school districts must provide a copy of the file within five business days.[56] Attorneys and advocates can also request a copy of the cumulative file if they have a signed "authorization form" from the guardian. When you send a records request to a school district and attach the authorization form, it is common to also provide a **notice of representation**.

What is an expulsion packet?

When a school district recommends a student for expulsion, they must assemble an "expulsion packet," which includes all the evidence the school district will present at the expulsion hearing.

What documents might be included in an expulsion packet?

Specific documents in an expulsion packet can include:

- Discipline notices, including the suspension notice, expulsion recommendation, extension of suspension notice, and expulsion hearing notice;
- Internal letters between staff about the expulsion, including internal expulsion recommendation forms addressed from school administrators to district level staff;
- Witness statements from staff, your student, and other students;
- Sworn declarations for student witnesses who are not testifying at the expulsion hearing;
- Your student's **discipline log**;
- Your student's **contact log**;
- Your student's transcript; and
- Your student's attendance records.

[56] California Education Code Section 49069.7(b).

How can you request a student's expulsion packet?

Guardians have the right to request copies of all documents the school district will use during the expulsion hearing (the expulsion packet).[57] The law suggests that guardians have the right to receive the expulsion packet at least 10 calendar days before the hearing.[58] Attorneys and advocates can request a copy of the packet for the guardian with an authorization form.

What is the hearsay only rule?

The hearsay only rule prohibits school districts from expelling students when their case is based on *only* **hearsay**.[59] Hearsay refers to statements from people who are not present to testify at the expulsion hearing based on their **personal knowledge**. Hearsay statements can include rumors, written reports, or witness statements.

Districts frequently try to rely on only hearsay to expel, so when you get the packet, you should analyze what evidence might be hearsay. Here are examples of hearsay and non-hearsay:

Examples of Hearsay	Examples of Non-Hearsay
• A witness statement from a student who saw the incident but does not testify at hearing • A witness statement from someone who is only conveying rumors • The administrator's investigation report where they share what they learned about the disciplinary incident from witnesses, rather than their own personal knowledge • A person's testimony about what someone else who is not testifying at the hearing saw	• Your student's written statement—NOTE: a student's written statement confessing to the incident is non-hearsay evidence and can be used to expel. A student's written statement denying the allegations is non-hearsay evidence, but the hearsay only rule still applies because the district would lack any non-hearsay evidence to support expulsion • Video evidence • A person's live testimony at hearing about what they personally witnessed

There is one exception to the hearsay only rule: if testifying at hearing would cause the witness "an unreasonable risk of psychological or physical harm," then the school district can present the witness' testimony through a **sworn declaration** instead of having them testify in person.[60]

The sworn declaration must include: (1) the witness' story about what they saw; and (2) why the witness is afraid of suffering psychological or physical harm if they testify at the expulsion hearing. The witness must sign the sworn declaration under **penalty of perjury**. If the expulsion hearing panel agrees to accept the sworn declarations, then the school district can still expel the student even if all their other evidence is hearsay.

[57] California Education Code Section 48918(b)(5).
[58] California Education Code Section 48918(b)(5).
[59] California Education Code Section 48918(f)(2).
[60] California Education Code Section 48918(f)(2).

When should you request missing documents from an expulsion packet?

Expulsion packets are often missing some or many of the documents in the list above. Whether to request copies of these missing documents is a strategic decision: you should request the document if it might help prove your student's case; you should not request the document if it might help prove the school district's case. Here are some examples:

Examples	Analysis
A statement from your student denying the incident	You should ask the district to give you the document because a statement from your student maintaining their innocence helps prove their case.
A discipline log that shows your student has few or no past discipline incidents	You should ask the school district to give you the document because a discipline log that shows your student has few or no past discipline incidents undermines the district's secondary findings arguments.
A video of the incident	You should ask for the video if your student has seen the video, and they are sure that it contains evidence that proves their innocence. If your student does not know what is on the video, it is best not to ask for it for two reasons: (1) if the district has it, uses it at hearing, and does not give it to you, it is a legal violation that you can appeal, since you have the right to inspect all evidence used at the hearing in advance; or (2) if the district does not show the video at hearing and only describes or references the video, it is hearsay, so you can overturn the expulsion under the hearsay-only rule. If your student knows that the video shows they violated the Education Code, then you should not ask the school district to give you the video because this video would help the school district prove Education Code violations.
Sworn statements from witnesses who will not be testifying at hearing	You should not ask the school district to give you the sworn statements because they would help the school district meet the exception for the hearsay only rule.
A confession from your student	You should not ask the school district to give you your student's confession because it would help the school district prove Education Code violations.
Extension of suspension notice	You should not ask the school district to give you the extension of suspension notice because this notice would help the school district prove that they followed the required procedures to extend your student's suspension.
A discipline log that shows your student has many past discipline incidents	You should not ask the school district to give you the missing discipline log because a log that shows your student has many discipline incidents helps the school district prove that secondary findings are met.

How should you organize and review education records and documents?

When you review education records, you are not reviewing to understand every detail in the records. Instead, you should focus on only the parts of the records that are relevant for the expulsion hearing. You should identify which parts of the records will help make your student's case stronger, and which parts of the records the school district may use to make its own case

stronger. The template for organizing records and evidence, which is in the toolkit for this chapter, is a helpful resource to quickly and effectively review student records.

What records should you review for an expulsion hearing?

In addition to closely reviewing the expulsion packet, some documents you should also review from the cumulative file include:

Document	Reasons for Review
Discipline log	When there are very few disciplinary incidents, you can argue that the district cannot meet the secondary findings requirement. When there are several disciplinary incidents, you can look for trends within the behaviors and argue that the district must try other means of correction to support the student through counseling, academic remediation, or by adjusting a student's schedule to avoid particular students or stressors.
Contact log	Contact logs can show times where the school called the parent to pick the student up instead of trying an intervention. They can also show times where the school did not call the parent when they should have informed them that their child was struggling. This helps undermine the school district's secondary findings arguments.
Academic data (Report cards, progress reports, test results, transcripts, etc.)	Academic data can show that a student is doing well academically, and their progress would be undermined if they were expelled to an alternative school with fewer curricular offerings and less support. Academic data can also show that a student who is struggling needs more support, perhaps through an IEP, and they would struggle more at an alternative school with less supports.
IEPs and service logs	Special education documents, if you have them, can be helpful even if an MDR did not come out in your student's favor. During the expulsion hearing, you can make the same arguments that you would at an MDR—that the behavior was caused by disability or failures to implement the IEP—and see if the expulsion panel is persuaded by them.

What other documents can you gather and use as evidence at a hearing?

At the expulsion hearing, you are allowed to use any relevant documents as evidence, even if those documents are not part of the student's cumulative file. These documents could include:

- Diagnosis letters or assessments from the student's doctor or private therapist;
- Letters of support from anyone in the student's life (i.e. friends, family, coaches, spiritual leaders, camp counselors) describing their good character;
- Emails the guardian has written to or received from school staff;
- Text messages, photos, or videos your student has that support their case;
- Research you have completed about the symptoms of your student's disabilities; and
- Witness statements the family has collected from witnesses the school did not interview.

You should thoroughly review these documents to make sure they support your student's case. If you would like to use the documents at the expulsion hearing, you should print them, organize them as a packet or binder, and give copies to the expulsion hearing panel.

Chapter 8 Toolkit

Chapter 8 Glossary

Contact Log	A document that tracks emails, phone calls, text messages, and other forms of communication where staff talk amongst themselves about the student or talk to the parent/guardian about the student.
Cumulative File	The cumulative file is a permanent record that includes *all* documents related to the student's education, including information about academics, health, enrollment, attendance, and behavior.
Discipline Log	A document that tracks each behavioral incident where the school suspended the student, expelled them, or implemented other means of correction instead of discipline.
Expulsion Packet	The expulsion packet includes all the evidence the school district will present during the expulsion hearing, such as discipline notices, witness statements, and the child's discipline log.
Hearsay	Statements from people who are not present to testify at the hearing, like rumors, written reports, or witness statements without any direct, in-person testimony from the person who has personal knowledge.
Hearsay Only Rule	A rule that prohibits school districts from expelling students if the only evidence they present at the expulsion hearing is hearsay.
Notice of Representation	A letter that tells the school district that you will be representing the student at their expulsion hearing.
Penalty of Perjury	A formal declaration that the information provided is true, and, if it is not, the person understands that they can be prosecuted for knowingly making a false statement.
Personal Knowledge	Something a person has experienced themselves with one of their five senses.
Sworn Declaration	A written statement that a person writes and signs, providing information that they have personal knowledge of and swear is true.

Sample Authorization Form

AUTHORIZATION TO RELEASE INFORMATION/RECORDS

Student's Name	
Student's D.O.B.	
ERH's Name	
Address:	
Telephone Number:	

AUTHORIZATION TO RELEASE INFORMATION/RECORDS

I authorize any person, governmental agency, corporation or other agency to release to _____ any and all information pertaining to (student) _____'s developmental, educational, social service, and/or mental health needs. Such information shall include medical, psychological, social, vocational, rehabilitative, educational, and law enforcement records, reports, assessments, and evaluations. The authorization includes the release of all records or documents deemed confidential and extends to all documents otherwise considered confidential under any Federal or State privacy laws.

This authorization shall include, but is not limited to, the right to inspect, copy, or otherwise utilize said records as may be deemed fit to obtain whatever clarification or opinion on said records the requesting party shall deem necessary to the proper disposition of my case.

I understand that this authorization, with the exception of action already taken, is subject to revocation by me at any time. I also understand that a photocopy or facsimile copy of this authorization has the same effect as the original.

Please forward all records regarding the minor named above within five (5) days of receipt of this form to:

Name of Requesting Party:	
Address:	
Telephone Number:	
Fax Number:	

Name of Person Authorizing Release of Records:
Relationship to Student:

Signature: _____ Date: _____

Sample Records Request Letter

REQUEST FOR STUDENT EDUCATION RECORDS

Date: _____

District: Attn: Custodian of Records	
Address:	
Fax Number:	

Student's Name:	
Student's D.O.B.:	
Current School:	
ERH's Address:	
ERH's Email:	
ERH's Telephone Number:	

Re: Records Request

To Whom It May Concern:

On behalf of student _____, a student who currently attends the school named above, I am writing to request a copy of all of the above student's education records retained by the District, including but not limited to the CUMULATIVE FILE (or a record of where the file was forwarded upon checkout) and ALL:

- Individualized Education Programs ("IEPs");
- Grades/Progress Reports/Transcripts;
- Disciplinary records, including, but not limited to, suspension and expulsion notices, evidence and investigation materials gathered pursuant to a proposed disciplinary action, and referrals to a counselor or other school official;
- Attendance records;
- Class schedules;
- Reports;
- Standardized test scores;
- Assessments/evaluations and protocols; and
- Notes by teachers and other staff members.

I represent the above student and their Education Rights Holder. I am attaching a signed authorization granting me the authorization to request and review records on the student's behalf. As you are aware, the law requires that you provide these records no later than five days following the date of the request. See Cal. Educ. Code Section 49069.7; see also FERPA, 20 U.S.C. Section 1232(g) and 34 C.F.R. Section 99.10 (discussing right to access records generally). Due to financial hardship, I am requesting that the fees for this request be waived.

You may email or mail the records requested, to my attention. Thank you in advance for your prompt attention to this request.

Sincerely,

Guide for reviewing and organizing records

Did you request the cumulative file and expulsion packet in writing?		
	Cumulative file	**Expulsion packet**
Date requested		
Date received		
Legal deadline for district to provide it	School must provide file within 5 schooldays of your request	School should provide the packet at least 10 calendar days before hearing
Were the records provided late?		

Which documents did you receive?	
Cumulative File	**Expulsion Packet**
☐ Progress reports ☐ Report cards ☐ Transcripts ☐ Attendance records ☐ Discipline logs ☐ Suspension notices ☐ Immunization records ☐ Enrollment forms ☐ Contact logs If student has disabilities: ☐ IEPs and/or Section 504 plans ☐ Special education evaluations ☐ Special education service logs	☐ Suspension notice ☐ Expulsion recommendation ☐ Extension of suspension notice ☐ Expulsion hearing notice ☐ Internal expulsion recommendation forms from (list staff): _____ _____ _____ ☐ Witness statements from (list): _____ _____ _____ _____ _____ _____ ☐ Sworn declarations from (list and note if signed under penalty of perjury): _____ _____ _____ ☐ Video recording ☐ Discipline log ☐ Contact log ☐ Academic progress data (transcripts, report cards) ☐ Attendance records
☐ Other (list): _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____ _____	

Are any documents missing, and would requesting them help your case?			
Cumulative File		Expulsion Packet	
Document	Request? Y/N	Document	Request? Y/N

Notes and follow-ups

Supported Practice

Read each scenario below and decide whether the expulsion is unlawful because of the hearsay only rule. Remember, you can use the hearsay only rule to stop an expulsion when the school district only presents hearsay evidence to prove the Education Code violation.

1. Your student is accused of fighting with another student, Student 1, on campus. There were no witnesses to the fight, and no one took a video of the fight. Your student wrote a statement denying that he fought the other student. The school district's evidence at the expulsion hearing included:

Expulsion Packet	Testimony
• Suspension notice • Notice of extended suspension • Expulsion hearing notice • Expulsion recommendation form • Your student's statement denying the allegation • Student 1's statement (not sworn under penalty of perjury) • Discipline log • Transcript • Attendance records	• The assistant principal's testimony that Student 1 told him your client fought with him

a. Evaluate the evidence the school district will present to prove your student was involved in the fight. What pieces of evidence (if any) are **not** hearsay?

_____

_____

_____

_____

_____

b. Can you use the hearsay only rule to stop the expulsion? Why or why not?

_____

_____

_____

_____

_____

c. Same facts as above, but the school district also submits a sworn statement from Student 1, swearing under penalty of perjury that your client fought with him. Can you use the hearsay only rule to stop the expulsion? Why or why not?

_____
_____
_____
_____
_____

d. Same facts as above, but the school district also submits a sworn statement from Student 1, swearing under penalty of perjury that your client fought with him and he is afraid that if he testifies, your client will physically harm him again. Can you use the hearsay only rule to stop the expulsion? Why or why not?

_____
_____
_____
_____
_____

2. Your student is accused of selling weed gummies to a group of students on campus. Each of these students writes a statement confirming your student sold them weed gummies, and your student also writes a statement admitting to selling weed gummies on campus. The school district's evidence at the expulsion hearing included:

Expulsion Packet	Testimony
• Suspension notice • Notice of extended suspension • Expulsion hearing notice • Expulsion recommendation form • Your student's statement admitting to selling weed gummies • The other students' statements (not sworn under penalty of perjury) • Discipline log • Transcript • Attendance records	• The assistant principal's testimony that the other students and your student told him your client sold weed gummies on campus

a. Evaluate the evidence the school district will present to prove your student sold weed gummies. What pieces of evidence (if any) are **not** hearsay?

_____

_____

_____

b. Can you use the hearsay only rule to stop the expulsion? Why or why not?

_____

_____

_____

3. Your student is accused of possessing a knife at school. Your student wrote a statement denying that she brought a knife to school, and no other students would agree to write statements about the incident. But another student, Student 2, took a video of your student taking the knife from her backpack and putting it into her sweatshirt pocket during class. The school district's evidence at the expulsion hearing included:

Expulsion Packet	Testimony
• Suspension notice • Notice of extended suspension • Expulsion hearing notice • Expulsion recommendation form • Your student's statement denying that she brought a knife • The video from Student 2 • Discipline log • Transcript • Attendance records	• The assistant principal's testimony that she received the video from Student 2, and the video shows your student possessing a knife

a. Evaluate the evidence the school district will present to prove your student possessed a knife at school. What pieces of evidence (if any) are **not** hearsay?

_____

_____

_____

b. Can you use the hearsay only rule to stop the expulsion? Why or why not?

_____

_____

_____

Independent Practice

You received an expulsion packet for your student, who is being recommended for expulsion for fighting and causing injury, under Education Code Section 48900(a)(2). The Assistant Principal is the only person who will be testifying for the district at the expulsion hearing. The packet contains the following documents:

- Suspension notice
- Expulsion hearing notice
- Expulsion recommendation form
- Extension of suspension notice
- Internal expulsion recommendations from his math teacher and PE teacher who say that your student is quiet and usually polite, but they have seen your student become frustrated with classmates during group activities. They agree with the school's decision to recommend expulsion but did not witness the incident.
- An incident report completed by the Assistant Principal. The Assistant Principal spoke with the student witnesses and your client, but he did not witness the fight. The report does not state whether the Assistant Principal spoke to the other student involved. The report references a video recording of the fight, but the recording is not included in the packet. (*NOTE: Your client shares he has not seen the video, but he is sure that it would show that the other student attacked him first*).
- Witness statements from Students A and B. Both students saw the fight after it started and say they saw your client hitting the other student. Neither statement is signed under penalty of perjury.
- A statement that your client wrote stating that the other student involved in the fight attacked them, and they were only defending themselves.
- A discipline log that shows only one other disciplinary incident, where your client was sent to the counselor for cursing at another student.
- A contact log that shows that both your client and a couple of his teachers have asked for counseling for the student to help them cope with some incidents of bullying.
- A transcript showing a 3.5 GPA and high citizenship grades.
- Attendance reports showing the student has 3 absences and 5 tardies for first period.

1. Since the District identified only the Assistant Principal as a witness, what documents are hearsay?

_____

_____

_____

2. Which are not hearsay?

_____

_____

_____

3. Are there any documents or records missing? Would requesting them help your case?

Missing document/record	Request? Y/N	Explain your reasoning

4. Can you use the hearsay-only rule to advocate against expulsion?

_____

_____

_____

_____

_____

_____

_____

_____

_____

Answer Key

Supported Practice

Read each scenario below and decide whether the expulsion is unlawful because of the hearsay only rule. Remember, you can use the hearsay only rule to stop an expulsion when the only evidence the school district presents is hearsay.

1. Prompt 1:
    a. Evaluate the evidence the school district will present to prove your student was involved in the fight. What pieces of evidence (if any) are **not** hearsay? Your student's statement is not hearsay. All other evidence is hearsay, including Student 1's statement and the assistant principal's testimony. Student 1's statement is hearsay because it is a statement he wrote outside the hearing, and he did not testify at the hearing. The assistant principal's testimony is hearsay because he is talking about what Student 1 said to him outside the hearing, not an event he personally witnessed.
    b. Can you use the hearsay only rule to stop the expulsion? Why or why not? Yes, you can use the hearsay only rule to fight this expulsion. Your student's statement is not hearsay, but the statement denies the fight, so the school district cannot use the statement to prove your client fought Student 1. The school district's only evidence that your client fought Student 1 is Student 1's statement and the assistant principal's testimony, but both are hearsay. The exception to the hearsay only rule isn't met here because Student 1's statement is not sworn under penalty of perjury and does not claim that Student 1 will face psychological or physical harm if he testifies.
    c. Same facts as above, but the school district also submits a sworn statement from Student 1, swearing under penalty of perjury that your student fought with him. Can you use the hearsay only rule to stop the expulsion? Why or why not? You can still use the hearsay only rule to fight this expulsion because the hearsay only exception is not met. Student 1's statement is sworn under penalty of perjury and includes his account of the incident. But it does not state that Student 1 fears psychological or physical harm if he testifies at the hearing. For that reason, the hearsay only exception is not met, and the school district's case is still based on only hearsay.
    d. Same facts as above, but the school district also submits a sworn statement from Student 1, swearing under penalty of perjury that your student fought with him and he is afraid that if he testifies at hearing, your client will physically harm him again. Can you use the hearsay only rule to stop the expulsion? Why or why not? No, you likely cannot use the hearsay only rule to fight this expulsion because the exception is probably met. Student 1's statement is sworn under penalty of perjury, includes his account of the incident, and states he is afraid that if he testifies at hearing, your client will physically harm him again. You could try to argue that the student's fear is

not enough to meet the psychological or physical harm standard. But otherwise, the school meets the requirements of the exception to the hearsay only rule.

2. Prompt 2:
    a. Evaluate the evidence the school district will present to prove your student sold weed gummies. What pieces of evidence (if any) are **not** hearsay? Your student's statement is not hearsay. All other evidence is hearsay, including the other student's statements and the assistant principal's testimony. The other students' statements are hearsay because they wrote the statements outside the hearing, and they did not testify at the hearing. The assistant principal's testimony is hearsay because he is talking about what the other students and your client said to him outside the hearing, not events he personally witnessed.
    b. Can you use the hearsay only rule to stop the expulsion? Why or why not? No, you cannot use the hearsay only rule to fight this expulsion. Your student's statement admits to selling weed gummies, and this statement is not hearsay.

3. Prompt 3:
    a. Evaluate the evidence the school district will present to prove your student possessed a knife at school. What pieces of evidence (if any) are **not** hearsay? Your student's statement and the video from Student 2 are not hearsay. The assistant principal's testimony about Student 2 providing her with the video footage of the incident is not hearsay. The assistant principal's testimony about the contents of the video footage is hearsay.
    b. Can you use the hearsay only rule to stop the expulsion? Why or why not? No, you cannot use the hearsay only rule to fight this expulsion. The video shows your student possessing a knife at school, and it is not hearsay evidence.

Independent Practice

1. Since the District identified only the Assistant Principal as a witness, what documents are hearsay?
   All documents except for your student's statement.

2. Which are not hearsay?
   Only your student's statement.

3. Are there any documents or records missing? Would requesting them help your case?

Missing document/record	Request? Y/N	Explain your reasoning
Video recording	**N**	You do not know for sure what is in the video. It is risky to request it because it might give the school district the non-hearsay evidence they need to expel your client.
Sworn statement from Student A	**N**	Both student statements claim they saw your client fighting. A sworn statement under penalty of perjury for either student would permit the district to use the exception to the hearsay-only rule to expel your client.
Sworn statement from Student B	**N**	

4. Can you use the hearsay-only rule to advocate against expulsion?

As long as the district does not send you the video or the sworn statements before hearing, the hearsay only rule applies. The only piece of non-hearsay evidence in the packet is your student's statement, and he says that he was only in the fight because he was defending himself. Because self-defense is not punishable under Section 48900(a)(2) of the Education Code, this statement does not help the district prove its case.

Chapter 9
Step 2: Evidence Chart

Chapter 9 Roadmap

In this chapter, you will learn how to organize your arguments and evidence in preparation for hearing by creating an evidence chart. This is Step 2 in the hearing preparation process.

Study Guide

- How do you determine what you should use as evidence?
- How do identify and evaluate your **theory of the case**?
- Why create an evidence chart?
- How do you create an evidence chart?
- How do you select witnesses for each document?
- Should the student testify?
    - Pros and cons of:
        - The student testifying live
        - The student providing a written statement
        - The student not providing any testimony
- Should you bring other witnesses for the student?

Toolkit Materials

- Chapter 9 Glossary
- Sample evidence chart

Supported Practice

- *Practice filling out the evidence chart for one piece of evidence*

Independent Practice

- *Create an evidence chart for Lenny Pugg*

Study Guide

How do you determine what you should use as evidence?

Education Code Section 48918 states that the student has the right "to present oral and documentary evidence on the pupil's behalf, including witnesses." The student also has the right "to confront and question all witnesses who testify at the hearing" and "to question all other evidence presented" by the district.

This means that you, as an advocate for the student, can:

1. Question any evidence the district includes and/or presents from the expulsion packet;
2. Question all witnesses the district calls;
3. Bring any other supporting evidence you want, like:
    a. Letters of support (explained further in Chapter 10);
    b. Witness statements you take;
    c. Helpful records from the student's education file that were not included in the expulsion packet;
    d. Diagnoses information, regional center records, or therapy notes (if applicable);
    e. Phone or email records that show procedures were not followed; or
    f. Visuals (pictures, charts, maps, handouts, etc.) that you create to help you tell the student's side of the story;
4. Bring and question witnesses for the student, including:
    a. The parent or caregiver;
    b. The student;
    c. Eyewitnesses to the incident, if they agree;
    d. Character witnesses, like family members, coaches, service providers, friends, etc.

How to identify and evaluate your theory of the case?

Your "theory of the case" is your best path to victory. A theory of the case frames or reframes the facts and evidence in a way that persuades the panel to side with your client and vote not to expel them from school. You should identify evidence that tends to support your theory (or theories) of the case. Theories of the case include:

- **The student is innocent of the charges against them.**

  Examples of evidence you can use to prove this theory include:

    - **Attendance records**—to show the student was not at school on the day of the incident, was not present when staff presented and explained school rules, or was not in the place the district says they were when the incident occurred.

- **Video footage**—to show your student was not present at the incident or involved to the extent the district claims. You can obtain video footage from the school, other students, or your student.
- **Social media posts**—to show that other student witnesses refute the district's account, prove the student was not involved or involved to a lesser extent, or that the student did not make posts or comments the district is claiming they made related to the incident.

- **The district cannot prove the charges.**

  This is different from an innocence theory. With this theory, you are not trying to prove the student's innocence. Instead, you are just trying to show that *the district cannot prove the student is guilty*. Remember, *the district must prove* the student violated a school rule to expel them; it is not a student's job to prove their innocence. This means you can make this argument even if the student did in fact commit the violation.

  You will prove this theory mainly through cross examining the district's witnesses. Through cross exam, you will poke holes in the district's case by showing their witness statements are inaccurate or untrustworthy or their investigation was not comprehensive enough to gather all key facts. You likely should not introduce new evidence unless it casts doubt on the credibility of district witnesses or their account of events. Examples of evidence you may want to introduce include:

  - A map of the campus that shows that the student cannot have gotten from point A to point B in the manner or within the time alleged.
  - Pictures of text messages or social media posts that contradict the district's version of events.

- **The district did not meet their procedural obligations.**

  You can use this theory regardless of whether the student violated the Education Code because the district always must prove that it provided the student with a fair hearing to shield its decision to expel from appeal. This means that it must show it followed the due process protections for school discipline outlined in the law, including those for the suspension, the extension of suspension, and the expulsion itself.

  Here, evidence of any procedural violation would help, including improper notices, emails with missing or incorrect information, or even phone records showing that caregivers were contacted late or not contacted at all.

- **The student violated the Education Code, but the district cannot prove secondary findings.**

Even if a district can prove that the student violated the Education Code, if the violation is discretionary or medium-discretionary, they still must prove secondary findings to expel. You can introduce evidence undermining secondary findings arguments, such as:

- Records that show that the district has not tried other means of correction.
- Discipline records showing that this was the student's first violation, undercutting any arguments that their behavior that cannot be corrected.
- Evidence that shows the student is not a continuing danger because staff allowed them to go back to school or they showed remorse.

- **The student violated the Education Code, but they acted in self-defense.**

  Self-defense is an implied affirmative defense for every Education Code violation, which means students can always challenge an expulsion by proving they acted in self-defense. In addition, for certain violations (Section 48900(a) and Section 48915(c)(2)), the Education Code specifically requires the district to prove that the student *did not act in self-defense*. In either case, you can introduce evidence that shows your student was reasonably acting in self-defense, like video footage that shows another student initiating the fight, messages that show other students were threatening your student, or testimony showing that the school's investigation did not consider self-defense.

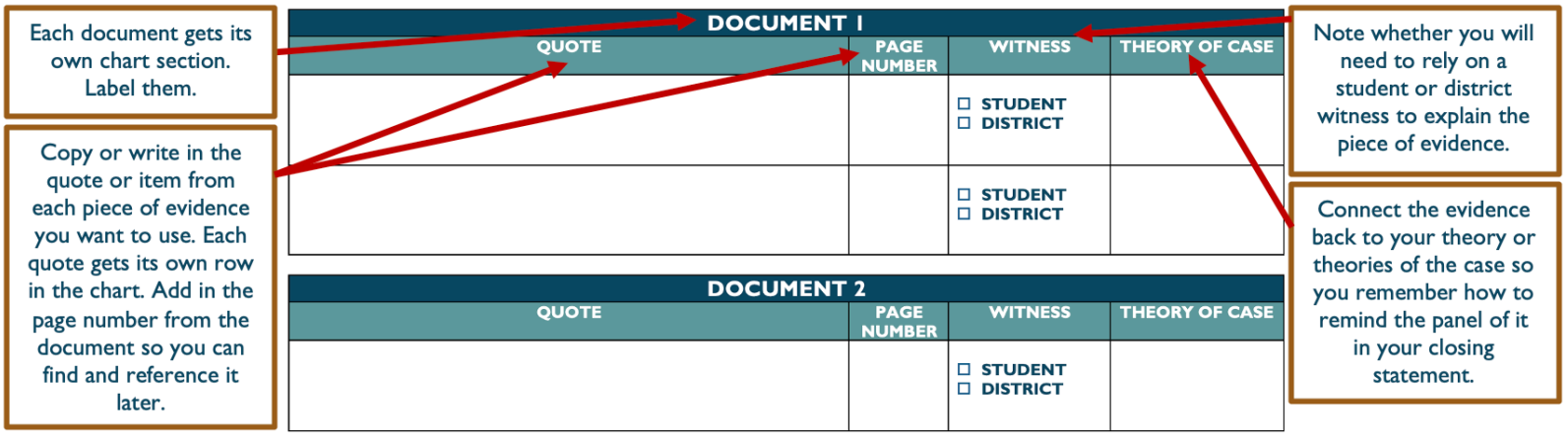
- **The student violated the Education Code, but they should not be expelled because of other important considerations.**
  This theory involves asking the district not to expel a student who has violated the Education Code because there are other factors/considerations that make expulsion inappropriate. These can include:
  - The presence of a disability;
  - The presence of a traumatic past or event;
  - The student asking the school for help before and not being given it;
  - The student needing the academic and behavioral supports of a comprehensive campus;
  - This was a one-time occurrence and should not derail their education; or
  - A transfer to a different school would better serve the student.

  You can and should use these arguments along with other theories, particularly the ones related to disability and trauma. These considerations can help contextualize student behavior and tell the student's story. Even if you have particularly bad facts on both the violation and secondary findings, these can be "last ditch" arguments to persuade a panel.

Why create an evidence chart?

The purpose of creating an evidence chart is to help you: (1) become very familiar with the district's evidence and your evidence; (2) figure out how to use the evidence to weaken the district's case and strengthen the student's case; and (3) figure out which documents you will question each witness about. Filling out an evidence chart also helps you identify which pieces of evidence are most important and/or harmful to your case.

How do you create an evidence chart?



A sample evidence chart is included in the Toolkit.

How do you select witnesses for each document?

During a hearing, you should rely on witnesses as much as possible to introduce information from the expulsion packet and your evidence. You are not required to use a witness to introduce each piece of evidence, but the panel will be more persuaded by the evidence if a witness answers questions about it during the hearing. You must decide if it is best to question a district witness or a student witness about each piece of evidence, and you will do this by evaluating who has the most credibility and personal knowledge of that evidence. You cannot question a witness about a document unless they have personal knowledge of that document.

When selecting a district witness, understand that you may not know before the hearing which witnesses the district will bring—sometimes there is just one administrator, and sometimes they bring teachers or other staff with them. This means you must be flexible as to which specific district witnesses you will question about the evidence.

Should the student testify?

If your student has been arrested or might be arrested for the behavior at issue in the expulsion hearing, then they **should not under any circumstances** testify at the expulsion hearing or submit a written statement. If your student is on juvenile probation for another incident, then they also **should not under any circumstances** testify at the expulsion hearing or submit a

written statement. In these cases, the risk of consequences in the juvenile legal system is too great, so you must defend the student from expulsion without their testimony.

Students also **should not under any circumstances** testify at the expulsion hearing or submit a written statement in cases where the district has presented only hearsay evidence. In these cases, the expulsion is automatically illegal, so the student's testimony will not strengthen their case. Instead, the student's testimony could give the district the missing non-hearsay evidence that they need to prove their case for expulsion.

In all other cases, there are options available for students to participate in their own defense: (1) testifying at the expulsion hearing; (2) submitting a written statement at the expulsion hearing; or (3) exercising the right not to provide testimony. This is one of the most important decisions the student will make throughout this process, and there are many factors for them to consider. These factors are described below to help you thoroughly explain the options to the student and empower them to make an informed decision.

Pros and cons of the student testifying live

The first option is for the student to testify at the hearing. The pros of this option are:

- The hearing panel will meet the student and get to know them as a person;
- The student gets to tell their side of the story;
- The hearing panel can hear the student's tone and see their body language, which can make their story more credible; and
- The student can talk about why going back to school is important to them.

The cons of this option are:

- The district representative and hearing panel can ask the student difficult questions;
- The student might experience anxiety or anger related to testifying; and
- The hearing panel might invalidate the feelings the student expresses.

If the student wants to testify, you should allow enough time to practice with them before.

Pros and cons of the student providing a written statement

The second option is for the student to submit a written statement to the expulsion hearing panel instead of testifying. If the student likes this option, they can submit their written statement under "penalty of perjury," which means that they swear everything in the statement is true. The pros of this option are:

- The hearing panel still gets to know the student as a person through their written words;
- The student still gets to tell their side of the story;
- The district representative and hearing panel cannot ask the student questions;
- Writing a letter might cause less anxiety or anger than testifying.

The cons of this option are:

- The hearing panel cannot hear the student's tone and see their body language, which can make their story less credible;
- Writing a letter might still bring up anxiety or anger for the student;
- The hearing panel might invalidate the feelings the student expresses.

If the student wants to write a letter to submit to the hearing panel, you should review the letter and make sure that it helps, rather than hurts the student's case.

Pros and cons of the student not providing testimony

The third option is for the student to not provide any testimony. The pros of this option are:

- The district representative and hearing panel cannot ask the student questions;
- The student will not experience anxiety or anger from testifying or writing a letter;
- The student is not expressing their feelings about their experiences, so the hearing panel cannot invalidate their feelings.

The cons of this option are:

- The hearing panel does not get to know the student;
- The student does not get to tell their side of the story;
- The student does not get to talk about why going back to school is important to them.

Should you bring other witnesses for the student?

You can and should bring other witnesses for the student if these witnesses can strengthen the student's case. To decide whether a witness can strengthen the student's case, think about your theories of the case. Can the witness help you prove one or more of your theories of the case? If yes, then you should bring the witness. Examples include:

- The parent can testify that the district failed to hold an extension of suspension conference;
- The student can testify that the allegations against them are not true;
- Another student can testify that they witnessed the event, and the allegations against the student are not true;
- The student's therapist can testify that they have disabilities that caused the incident;
- The student's tennis coach can testify that they are always helping other athletes during practice and do not pose a "danger" to anyone.

Witnesses can testify live at the expulsion hearing or write a letter to submit to the hearing panel. If the witness testifies live, you should practice with them before the hearing.

Chapter 9 Toolkit

Chapter 9 Glossary

Theory of the Case	The best story or stories you can tell at hearing using the evidence to persuade the panel to side with your student and not expel them.

STUDENT'S EVIDENCE CHART

Copy and paste the document chart for each piece of evidence.

THEORY OF THE CASE ***(check all that apply)***

- ☐ The student is innocent of the charges against them
- ☐ The district cannot prove the charges
- ☐ The district did not meet their procedural obligations
- ☐ The district cannot prove secondary findings
- ☐ The student was acting in self-defense
- ☐ Other important considerations apply

DOCUMENT (Name and Date): _____			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

Supported Practice

Let's return back to our case with Lenny Pugg. Use Lenny's suspension notice to start filling out the evidence chart. We have provided you with your theories of the case, which are indicated on the evidence chart below.

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg			**Date:** April 11, 2025
Student ID#: 654321		**Grade:** 3rd	**Date/Time/Location of Incident:** 04/11/2025, quad, recess
Dates of Suspension: 04/11/2025 **to**	**# of Days**	**Return Date:** **after hearing**	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** Parent made on April 11, 2025 telephone ☐ **Referral to Principal** ☑ **Law Enforcement Notified**			
Contact with: parents			
Administrator and Title: Dean Murphey			**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900.4 – creation of a hostile educational environment

Education Code Section 48915(a)(1)(B) – possession of a knife

Education Code Section 48915(c)(2) – brandishing a knife

Brief description of the incident causing suspension:

On April 11, 2025 during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the CUSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

LENNY'S EVIDENCE CHART

Copy and paste the document chart for each piece of evidence.

THEORY OF THE CASE ***(check all that apply)***

- [x] The student is innocent of the charges against them
- [x] The district cannot prove the charges
- [x] The district did not meet their procedural obligations
- [x] The district cannot prove secondary findings
- [x] The student was acting in self-defense
- [x] Other important considerations apply

SUSPENSION NOTICE (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

Independent Practice

Below you will find the complete expulsion packet the District gave to Lenny Pugg's parents on May, 27, 2025. You also plan to use the IEP meeting notes from Lenny's last meeting, included after the packet. Review the documents and fill out the evidence chart.

LENNY'S EVIDENCE CHART

THEORY OF THE CASE *(check all that apply)*

- [x] **The student is innocent of the charges against them**
- [x] **The district cannot prove the charges**
- [x] **The district did not meet their procedural obligations**
- [x] **The district cannot prove secondary findings**
- [x] **The student was acting in self-defense**
- [x] **Other important considerations apply**

EXPULSION NOTICE (April 21, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

LENNY'S WITNESS STATEMENT (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

STUDENT 1'S WITNESS STATEMENT (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

MS. RILEY'S WITNESS STATEMENT (May 23, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

DEAN MURPHEY'S STATEMENT (May 23, 2025)			
QUOTE	PAGE NUMBER	WITNESS	THEORY OF CASE
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

PICTURE OF BULLET SHELL (undated)			
QUOTE	PAGE NUMBER	WITNESS	THEORY OF CASE
		☐ STUDENT ☐ DISTRICT	

PICTURE OF POCKETKNIFE (undated)			
QUOTE	PAGE NUMBER	WITNESS	THEORY OF CASE
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	

BEHAVIOR LOG (August 2021-April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
REPORT CARD (2024-2025 school year)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
		☐ STUDENT ☐ DISTRICT	
IEP Meeting Notes (March 1, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
		☐ STUDENT ☐ DISTRICT	

May 27, 2025

To the parents of Lenny Pugg:

Included with this notice are the documents and records City Unified School District will present as evidence at Lenny's May 30, 2025, expulsion hearing. These are provided pursuant to Section 48918 of the Education Code.

Enclosed, please find:

- Notice of Expulsion, dated April 21, 2025
- Notice of Suspension, dated April 11, 2025
- Witness statements from:
    - Lenny Pugg
    - Student 1
    - Ms. Riley, classroom teacher
- Statement from Dean Murphey
- Picture of bullet
- Picture of pocketknife
- Lenny's behavior log
- Lenny's report card

In addition, the District will be bringing the following witness to the hearing:

- Dean Murphey

Sincerely,

Coco Guevara, Superintendent of City Unified School District

April 21, 2025

Han and Gilbert Pugg
123 Ziggy Street
Neighborhood City, California 54333

RE: Lenny Pugg
DOB: 9/21/2016
School: Neighborhood Elementary School

Dear Mr. and Mr. Pugg:

The principal of Neighborhood Elementary School has recommended the expulsion of Lenny Pugg from City Unified School District for engaging in behavior described in Education Code Sections 48900.4, 48915(a)(1)(B), and 48915(c)(2). The allegation is that:

> On April 11, 2025, during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

In order that you and Lenny may be provided an opportunity to participate in the discussion of the case, we invite you to attend an Expulsion Hearing, which has been scheduled as follows:

> DATE: Friday, May 30, 2025
> TIME: 8:30 am
> PLACE: City Unified School District Headquarters

Prior to the hearing, you may request from this office copies of the written materials concerning the student's case which are to be used at hearing. Otherwise, they will be provided to you when you arrive at our office.

During the hearing, you will have the opportunity to challenge and question any witness(es) who may testify at the hearing; dispute any other evidence; offer testimony; submit written documents; and introduce other pertinent evidentiary material on your student's behalf, including witness(es). You may also choose to be represented by an attorney or non-attorney advisor.

If, as a result of this hearing, the City Unified School District Board of Education expels your child, and you wish to enroll them in another district, you will be required by State law to advise that district of your child's expulsion from this district.

State law requires that you be sent notification of the hearing at least ten days prior to the date the hearing is scheduled. If you wish to postpone the hearing as scheduled, you are to make your request in writing. If this is not done, the hearing will take place as scheduled.

Please call (555) 555-5555 to let us know whether or not you plan to attend the hearing or if you have any questions concerning the information above.

Sincerely,



Coco Guevara, Superintendent of City Unified School District

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg			**Date:** April 11, 2025
Student ID#: 654321		**Grade:** 3rd	**Date/Time/Location of Incident:** 04/11/2025, quad, recess
Dates of Suspension: 04/11/2025 **to**	**# of Days**	**Return Date:** **after hearing**	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☑ **Law Enforcement Notified**			Parent made on April 11, 2025 telephone
Contact with: parents			
Administrator and Title: Dean Murphey			**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900.4 – creation of a hostile educational environment

Education Code Section 48915(a)(1)(B) – possession of a knife

Education Code Section 48915(c)(2) – brandishing a knife

Brief description of the incident causing suspension:

On April 11, 2025 during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the CUSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

NEIGHBORHOOD ELEMENTARY SCHOOL

Student Report

Your name: LENny

Date: April 11, 2025

Time: 11:00 am

Teacher Name: MS RILEY Admin: Dean Murphey

Describe what happened: [redacted] and [redacted] WERE bULLing me. THEy were ONKING me like a Pig. I hAD a nife bUT I WasNt gONNA USe iT.

Names of other students involved: [redacted]

Where did it happen?: OWTSID

Names of other students involved: [redacted]

Did you tell someone?: I TOLd my TeaCHER bUT she dint help

Signed under penalty of perjury:

NEIGHBORHOOD ELEMENTARY SCHOOL

Student Report

Your name: [redacted] [Student 1]

Date: April 11, 2025

Time: 1:30 pm

Teacher Name: Ms. Riley Admin: Dean Murphey

Describe what happened:

Today at recess, I was playing then Lenny came up 2 us and yelled. He had a nife. He was mad.

Names of other students involved: Lenny and [redacted] and [redacted]

Where did it happen?: playgrond

Names of other students involved: you already axed me this.

Did you tell someone?: yes, my teacher

Signed under penalty of perjury:

Ms. Riley Statement

From: M. Riley

To: Dean Murphey

Date: May 23, 2025

Subject line: Lenny's incident

Hi Dean Murphey,

Here is my summary of the incident in response to your request:

> April 11, 2025, started off as a pretty regular day for Lenny. I didn't notice anything off about his behavior at first. About mid-way through the morning, Lenny started acting out in class. He was blurting out comments while I was teaching my lesson, and he even got up out of his seat in the middle of class. I didn't send Lenny to administration because I felt I could address these behaviors in the classroom.
>
> I sent my class out to recess and stayed in my classroom to prep my next lesson. I heard from some of my students later that Lenny pulled out a knife during recess and threatened to hurt his classmates with it. I didn't see anything myself.
>
> I'm very concerned about having Lenny back in my class. I haven't had too many behavioral issues with him this year, but recently he seems a lot more withdrawn, and any student that thinks it's okay to bring a weapon to school is concerning to me.

I'm able to come to the expulsion hearing if you need me there.

Thank you,

Ms. Riley

INCIDENT REPORT

To: Coco Guevara

From: Dean Murphey

Date: May 23, 2025

Re: Lenny Pugg, April 11, 2025, Incident

On Friday, April 11, 2025, at approximately 10:30 am, I received a call over the walkie talkie from Campus Security Officer Ziggy Bush asking for support with a student who allegedly had a weapon. He stated that three third-grade students had reported to him that Lenny Pugg had a knife on him. I went to the playground and spotted a large group of students in a circle near the back corner of the playground. As I got closer to the group, I heard students making loud noises and yelling. In the middle of the group was Lenny, who I saw was very upset and tightly holding something in his right hand. He seemed to have shown what was in his hand to other students.

When the third-grade students saw me, they all ran away except for Lenny, who walked towards me looking guilty. CSO Bush and myself along with Ms. Riley who had come out to the playground by this point, walked Lenny to the office. Lenny was visibly angry and upset and kept telling Ms. Riley that the students outside were bullying him and calling him names. I immediately asked him when we reached the office if he had a knife with him. Lenny said yes. CSO Bush conducted a search and found the knife in Lenny's hoodie. A further search of Lenny's backpack yielded an empty bullet shell.

After this search, Lenny came willingly to the back office where he wrote a statement. Lenny kept asking to talk to his dads, and I told him that we were calling them. CSO Bush interviewed Student 1 and talked to a few other students, but I'm not sure which ones. He also took pictures of the bullet shell and pocketknife.

Because we found a weapon, we had no choice but to call the police. A police officer showed up and also questioned Lenny in the back office, but she determined that no further action was necessary.

Lenny's dads arrived at the campus. I met with them and told them about what happened and that Lenny would be suspended. I followed all laws with regards to the Education Code.

During Lenny's suspension, we heard from a lot of students that they were scared because of what happened. I decided that Lenny should be recommended for expulsion and should be placed on an extended suspension for everyone's safety. Again, I followed all laws with regards to the Education Code.

Picture of bullet shell



Picture of pocketknife



City Unified School District

Neighborhood Elementary School

STUDENT DETAIL BEHAVIOR LOG

To: Discipline

From: Dean Murphey

Student: Lenny Pugg

Student ID: 654321

DOB: 09/21/2016

Date Enrolled: August 15, 2021 Date Left: April 11, 2025

Date	Type	Description	Updated By and Date
April 1, 2025, 3:45 pm	Student Referrals – Discipline	**Reason:** Caused, attempted to cause, or threatened to cause physical injury **Description:** Lenny yelled at Student 1 in front of a large group of students. Lenny threatened Student 1 by saying he was going to "get him" in the future. Student 1 reports feeling very afraid to come to school. **Comments/Follow-up:** **Prior Interventions:** **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Suspension **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/02/2025 **Effective End Date:** 04/03/2025 **Number of Suspension Days:** 2	Dean Murphey 4/2/2025
April 11, 2025, 10:35 am	Student Referrals – Discipline	**Reason:** Brandishing a knife at another person; possessing a dangerous object; creating a hostile learning environment **Description:** Lenny threatened and terrified a group of students with a pocketknife he brought to school. **Comments/Follow-up:** **Prior Interventions:** Suspension **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Recommended for Expulsion, Law Enforcement Notification (no citation issued) **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/11/2025 **Effective End Date:** -- **Number of Suspension Days:** --	Dean Murphey 4/11/2025

City Unified School District

CALIFORNIA CONTENT STANDARDS ELEMENTARY REPORT CARD

Neighborhood Elementary School

Administrator: MURPHEY Year: 2024-2025

Student Name: LENNY PUGG
Student ID: 654321
DOB: 09/21/2016 Language Classification: LEP
Teacher Name: M. Riley Grade: 3 Room #: 5

Reporting Period	1st	2nd	3rd
Days Present:	60	58	
Days Absent:	0	2	
Days Tardy:	0	0	

Academic Subjects	Demonstrates Knowledge of California Content Standards	1st	2nd	3rd
English Language Arts	Foundational Reading Skills	2	1	
	Making Meaning from Text	2	1	
	Language Conventions, Effective Use, Vocabulary	2	1	
	Effective Expression Through Writing	2	1	
	Effective Expression Through Speaking and Listening	2	1	
Mathematics Content	Operations and Algebraic Thinking	3	2	
	Number and Operations in Base Ten	4	2	
	Measurement and Data	3	2	
	Geometry	3	3	
	Number and Operations—Fractions	4	3	
Mathematical Practices	Problem Solving and Precision	3	1	
	Reasoning and Explaining	3	2	
	Modeling and Using Tools	3	2	
	Seeing Structure and Generalizing	3	1	
Science	Content and Concepts	2	1	
	Conducts Investigations	3	1	
	Constructs Relevant Questions	2	1	
History-Social Science	Content and Concepts	3	2	
	Historical and Social Science Analysis Skills	2	2	
Visual and Performing Arts	Dance	4	4	
	Music	4	4	
	Visual Arts	3	4	
Physical Education	Content and Concepts	4	4	
Health Education	Content and Concepts	4	4	

Academic Scores Key				
4 = Exceeds Grade Level Standards	**3** = Meets Grade Level Standards	**2** = Progressing Toward Grade Level Standards	**1** = Minimal Progress Toward Grade Level Standards	**N/A** = Not assessed in current reporting period

Teacher Comments (First Reporting Period):

Puts in great effort

Participates in class

Meets or approaching standards in most areas

Thoughtful and kind

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Second Reporting Period):

Seems distracted during class

Does not complete classroom assignments

Does not consistently participate in class

Does not complete homework assignments

Far below standards in most areas

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Third Reporting Period):

M. RILEY	Date	GIL PUGG	Date

ADDITIONAL STUDENT EVIDENCE

AMENDMENT DATE: 3/1/2025 PURPOSE: Parent request

CITY UNIFIED SCHOOL DISTRICT IEP
TEAM MEETING NOTES

Student Name: Lenny Pugg **Birthdate:** *9/21/2016* **IEP Date:** *3/1/2025*

Date Saved: 3/1/2025

Notes: Dean Murphy (admin), Mary Riley (gen ed teacher), Jen Daily (special education coordinator), Mark Tinker (speech pathologist), Gabe Ellerby (RSP teacher); Han and Gilbert Pugg (parents)

J. Daily - started meeting by introducing IEP team. The purpose of the IEP is parent request due to behavioral and academic concerns about Lenny.

Strengths and challenges:

Dean Murphy - Lenny is a polite and energetic boy who always says hello in the hallways. He has been sent to the office a few times this year for disruptive behavior, but he is always apologetic and does not take long to refocus and get back to class when he is allowed quiet time.

M. Riley - Lenny is a sweet boy who tries hard and wants to please. His favorite subjects are math, and he is a talented artist. He struggles with reading and writing, mostly with comprehension and organizing his thoughts. He is a capable student with excellent attendance, but his issues are mostly due to focus and effort on non-preferred activities. He does tend to blurt out and engage in impulsive or disruptive behavior, but he is never defiant or rude. I do worry about his ability to make friends--he does seem to struggle with that, and his peers are often annoyed with him.

G. Ellerby - Lenny is fun to work with. He loves to laugh and makes connections quickly with people who give him praise and encouragement. He has somewhat stopped progressing in reading and writing this semester, which seems to be due to a lack of interest and motivation. He loves to chat about art and sports, so it is difficult to refocus him off those areas of interest to get him to work. I have seen him come to RSP at times appearing a bit sad or withdrawn the past few months, but he doesn't want to talk about it.

M. Tinker - Lenny is a sweet kid. He tries hard in speech and loves to get answers correct. He can be impulsive and hard to redirect at times, but he is never rude.

J. Daily - Lenny is a joy to have around. His smile is infectious! His grades have slipped recently, and I have heard concerns that his impulsivity is getting the best of him in class. I have spoken to his teacher to see if I can support.

Parents - Lenny is a great son. He wants to please and is motivated to one day be an artist or a baseball player. He used to really love school, but lately he has been coming home sad and withdrawn. Also concerned about the number of calls they are getting about Lenny's classroom behavior. He has ADHD, and has always had impulsive behavior, but his other teachers were able to more easily redirect him. Concerned because they don't know what is going on. Lenny also seems to be lonely at school and they are worried that he may be experiencing bullying.

Answer Key

Supported Practice

Note: The answers below are just a sample and do not represent the only correct answers.

LENNY'S EVIDENCE CHART

Copy and paste the document chart for each piece of evidence.

THEORY OF THE CASE *(check all that apply)*

- X **The student is innocent of the charges against them**
- X **The district cannot prove the charges**
- X **The district did not meet their procedural obligations**
- X **The district cannot prove secondary findings**
- X **The student was acting in self-defense**
- X **Other important considerations apply**

SUSPENSION NOTICE (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Notice is for more than 5 days, and no end date.	**3**	☐ **STUDENT** ☒ **DISTRICT**	District cannot meet their procedural obligations
No other means of correction provided apart from IEP	**3**	☒ **STUDENT** ☐ **DISTRICT**	District cannot prove secondary findings (for possession and hostile environment allegation)
Specific charges are 48900.4 (hostile educational environment); 48915(a)(1)(B) (possession of knife); 48915(c)(2) (brandishing a knife)	**3**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
Law enforcement notified	**3**	☐ **STUDENT** ☒ **DISTRICT**	Since no citation, can argue no threat/continuing danger? (secondary findings)

Independent Practice

Note: The answers below are just a sample and do not represent the only correct answers.

EXPULSION NOTICE (April 21, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Specific charges are 48900.4 (hostile educational environment); 48915(a)(1)(B) (possession of knife); 48915(c)(2) (brandishing a knife). *No charges added between suspension and expulsion notices*	1	☐ STUDENT ☒ DISTRICT	District cannot prove the charges
"On April 11, 2025, during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school."	1	☐ STUDENT ☒ DISTRICT	Student is innocent of some charges District cannot prove other charges
Hearing scheduled for Friday, May 30, 2025 (timeline violation)	1	☐ STUDENT ☒ DISTRICT	District cannot meet their procedural obligations
LENNY'S WITNESS STATEMENT (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
REDACTED and REDACTED were bullying, oinking like a pig	4	☒ STUDENT ☒ DISTRICT	Secondary findings Self-defense
I had a knife, but I wasn't going to use it	4	☒ STUDENT ☒ DISTRICT	District cannot prove some charges Self-defense
I told my teacher, but she didn't help	4	☒ STUDENT ☒ DISTRICT	Secondary findings Self-defense
STUDENT 1'S WITNESS STATEMENT (April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Today at recess, I was playing. Lenny came up to us with a knife. He was mad.	5	☐ STUDENT ☒ DISTRICT	District cannot prove some charges

Not signed under penalty of perjury	**5**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Procedural obligations

MS. RILEY'S WITNESS STATEMENT (May 23, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Date is May 23, 2025 *More than a month after incident, credibility?*	**6**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
About mid-way through the morning, Lenny started acting out (blurting out, getting out of seat)	**6**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings Other important considerations (disability)
Ms. Riley didn't see anything.	**6**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
Concerned about weapon but hasn't had serious incidents in the past with Lenny	**6**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings

DEAN MURPHEY'S STATEMENT (May 23, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Date is May 23, 2025 *More than a month after incident, credibility?*	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
On Friday, April 11, 2025, at approximately 10:30 am, I received a call over the walkie talkie from Campus Security Officer Ziggy Bush asking for support with a student who allegedly had a weapon. He stated that three third-grade students had reported to him that Lenny Pugg had a knife on him.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing
I went to the playground and spotted a large group of students in a circle near the back corner of the playground. As I got closer to the	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges

group, I heard students making loud noises and yelling.			Secondary findings (bullying) Self-defense
In the middle of the group was Lenny, who I saw was very upset and tightly holding something in his right hand. He seemed to have shown what was in his hand to other students.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing
When the third-grade students saw me, they all ran away except for Lenny, who walked towards me looking guilty.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
CSO Bush and myself along with Ms. Riley who had come out to the playground by this point, walked Lenny to the office. Lenny was visibly angry and upset and kept telling Ms. Riley that the students outside were bullying him and calling him names.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing Self-defense
I immediately asked him when we reached the office if he had a knife with him. Lenny said yes. CSO Bush conducted a search and found the knife in Lenny's hoodie. A further search of Lenny's backpack yielded an empty bullet shell.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing
After this search, Lenny came willingly to the back office where he wrote a statement. Lenny kept asking to talk to his dads, and I told him that we were calling them. CSO Bush interviewed Student 1 and talked to a few other students, but I'm not sure which ones. He also took pictures of the bullet shell and pocketknife.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing Procedural obligations
Because we found a weapon, we had no choice but to call the police. A police officer showed up and also questioned Lenny in the back office, but she determined that no further action was necessary.	**7**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges Lenny is innocent of brandishing Procedural obligations

Lenny's dads arrived at the campus. I met with them and told them about what happened and that Lenny would be suspended. I followed all laws with regards to the Education Code.	**7**	☐ **STUDENT** ☒ **DISTRICT**	Procedural obligations
During Lenny's suspension, we heard from a lot of students that they were scared because of what happened. I decided that Lenny should be recommended for expulsion and should be placed on an extended suspension for everyone's safety. Again, I followed all laws with regards to the Education Code.	**7**	☐ **STUDENT** ☒ **DISTRICT**	Procedural obligations Secondary findings

PICTURE OF BULLET SHELL (undated)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
A bullet shell is not a weapon.	**8**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
No proof this belongs to Lenny.	**8**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges

PICTURE OF POCKETKNIFE (undated)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
No proof this belongs to Lenny.	**8**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges
Knife is closed. Suggests Lenny didn't brandish it because it wasn't open.	**8**	☐ **STUDENT** ☒ **DISTRICT**	District cannot prove the charges

BEHAVIOR LOG (August 2021-April 11, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Only two behavior entries, so no significant history of behaviors	**9**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings

Both incidents involve Student 1	**9**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings Self-defense
No non-disciplinary other means of correction attempted except for one conference	**9**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings

REPORT CARD (2024-2025 school year)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Only two absences and no tardies	**10**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Most grades dropped from first trimester to second trimester	**10**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Teacher comments show school performance dropped from first to second trimester	**11**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings

IEP Meeting Notes (March 1, 2025)			
QUOTE	**PAGE NUMBER**	**WITNESS**	**THEORY OF CASE**
Dean says Lenny is polite and energetic	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Sent to office for disruptive behavior, but apologetic and refocuses quickly	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Teacher says he tries hard and wants to please	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings

Struggles with reading and writing, focus, effort on non-preferred activities	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Teacher is worried about ability to make friends, peers often annoyed with him	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings Self-defense
RSP teacher says he is fun to work with and loves to laugh. Makes connections when given praise/encouragement.	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Teacher noticed he appears sad/withdrawn in past few months	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings Self-defense
Speech pathologist says Lenny can be impulsive and hard to redirect at times	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
SPED Coordinator says smile is infectious, joy to have around, but grades have slipped and struggling with impulsivity	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings
Parents reported Lenny is being bullied, feels lonely at school	**29 of 38**	☐ **STUDENT** ☒ **DISTRICT**	Secondary findings Self-defense

Chapter 10
Step 3: Direct Exam Prep

Chapter 10 Roadmap

*In this chapter, you will learn how to prepare direct examination questions for hearing by drafting **open-ended questions** that frame the theory of your case and help you introduce and **authenticate** evidence. This is Step 3 in the hearing preparation process.*

Study Guide

- What is direct examination?
- How do you frame direct examination questions?
  - What are open-ended questions?
  - How long should your questions be?
  - Should you ask questions you do not know the answers to?
- What if the district **objects** to your question?
- How do you introduce evidence through direct examination?
  - What does it mean to have a witness establish personal knowledge?
  - What does it mean to authenticate evidence?
  - Can you introduce **student statements** or **letters of support** through direct examination?
- How do you prepare witnesses for direct examination?

Toolkit Materials

- Chapter 10 Glossary
- Direct Examination Drafting and Editing Checklist

Supported Practice

- *Practice editing **closed-ended questions** to make them open-ended*
- *Practice editing down long or **compound questions***

Independent Practice

- *Draft questions for a witness for Lenny Pugg based on a statement of facts*

Study Guide

What is direct examination?

Direct examination is when an advocate questions their own witnesses to present evidence and build a compelling narrative for the panel that furthers the theory of the case. Strong direct examinations have structure, guiding the panel through the story by clearly transitioning through the timeline and topics that prove the elements of your case. Unlike when you question district witnesses, discussed in Chapter 11, direct examination should feel conversational.

How do you frame direct examination questions?

You should prepare direct examination questions ahead of time using the evidence chart you made in Chapter 9. The best direct examination questions are (1) open-ended,[61] (2) concise, and (3) aimed at getting facts you are aware of and want to admit into evidence.

What are open-ended questions?

Open-ended questions cannot be answered with a simple "yes" or "no" or a single-word response. They also do not suggest an answer; rather they guide a witness through telling their story in a clear way and encourage them to provide detailed answers in their own words.

Open-ended questions often start with words like "who," "what," "when", "where," "why," "how," "tell me about," "describe," or "explain," as these words encourage a witness to answer in detail. Here are some examples and non-examples of open-ended questions:

- *Instead of:* "Did the suspension notice include a description of the incident?"
    - *Ask*: "Describe the suspension notice you received."
- *Instead of*: "Did the school have an interpreter at the pre-suspension conference?"
    - *Ask*: "Who was at the pre-suspension conference?"
- *Instead of:* "Did you receive an expulsion packet?"
    - Ask: "What evidence did the school send to you before today?"

How long should your questions be?

Under the pressure of hearing, it is hard for witnesses to understand and accurately respond to questions that are long or compound. Keep your questions short and clear to help your witness answer your questions and to help the panel follow along with your narrative.

Tip 1: Avoid asking long questions

You should try to limit direct exam questions to seven words or less. This ensures your witness understands exactly what is being asked without getting lost in or confused by your phrasing.

[61] There are exceptions where you can use closed-ended questions instead of open-ended questions during direct exam: if a closed-ended question is necessary to establish personal knowledge, authenticate a document, or introduce a new topic.

Avoiding long questions is difficult to do in real time and requires that you prepare your questions in advance. Here is one technique to condense long questions:

1. Remind the witness of a particular fact, their prior testimony, or another witnesses' testimony in a statement, and
2. Ask a short question that asks them to elaborate on that fact or testimony.

Here is an example:

Instead of: *When the principal called you to pick Lenny up after the fight, what did you learn when you got to the school? [22 words]*

- Restatement of fact: *Mr. Pugg, you said earlier that the principal asked you to pick Lenny up from school after the fight.*
  Question: *What happened when you got to school? [7 words]*

Instead of: *What did the principal say to you when she called you before the extension of suspension conference? [17 words]*

- Restatement of fact: *You said that the principal called you before the extension of suspension conference.*
- Question: *What did she say to you? [6 words]*

Restating a fact before asking your question allows you to clarify exactly what facts you are looking for without overwhelming your witness or confusing them by a long, detailed question.

Tip 2: Avoid asking compound questions

You should avoid compound questions, as they are confusing to both the witness and the panel and often lead to inaccurate testimony due to the ambiguity of the phrasing. Instead, break your questions up and ask them one at a time. For example,

Instead of: *Where were you when the principal called you and what did she say?*

- Ask: *Where were you when the principal called? What did she say?*

Should you ask questions you do not know the answers to?

During direct examination, you should not ask questions that you do not know the answers to because this risks answers that harm your student's case. You should only ask a question if you have practiced it before hearing with the witness and their answer will help the student's case.

What if the district objects to your question?

An objection is when either you or the school district raises a formal protest to a question, response, or evidence. Since expulsion hearings are informal, it is rare, but possible, for the school district's representative to object to your questions. The most common objections are:

Type of Objection	Meaning of Objection
Relevance	You are asking a question about something that does not relate to the issues in the expulsion hearing.
Compound	You asked two questions at the same time.
Vague or ambiguous	Your question is unclear.
Leading	You are asking your witness a closed-ended question instead of an open-ended question.

If a school district representative makes an objection, the witness must wait to answer until the person running the hearing decides on the objection. If the objection is "sustained" (approved), then the witness cannot answer the question, and you will need to rephrase it. If the objection is "overruled" (denied), then the witness must answer your question.

How do you introduce evidence through direct examination?

Any testimony that you get through direct examination becomes evidence the expulsion hearing panel will review before reaching a decision. Evidence also includes written documents or objects that help support the student's case. Students have the right to introduce evidence during an expulsion hearing, and you can do so during either direct or cross examination.

Since expulsion hearings are much less formal than court trials, most school districts do not have specific rules for introducing evidence. Usually, you simply bring printed copies of the evidence and hand copies of it to the expulsion hearing panel during the hearing. Unless a school district tells you otherwise, you are not required to formally introduce the evidence or ask a witness questions about the evidence for it to be included in the record.

However, asking witnesses questions about the evidence can increase its impact. For example, when you ask a witness questions about a suspension notice, you can use the questions to draw attention to the parts of the notice that help your student's case. If you are planning to ask a witness questions about a piece of evidence, you should: (1) establish that the witness has personal knowledge of the evidence; and (2) have the witness authenticate the evidence.

What does it mean to have a witness establish personal knowledge?

During an expulsion hearing, you should only ask witnesses questions about a topic, document, or object that they have personal knowledge. Direct, firsthand experience with a document means that the witness: (1) created the document themselves, (2) participated in the event that led to the document being created, or (3) reviewed the document before the expulsion hearing.

For example, the following witnesses would have personal knowledge of an extension of suspension notice: anyone who attended the extension of suspension conference (usually the student, parent, and administrator), and the person who wrote the notice (usually the administrator). Other witnesses, such as the student's teacher, likely would not have personal knowledge of the extension of suspension notice. This means that you can ask the student,

parent, and administrator questions about the extension of suspension notice, but you probably should not ask the teacher questions about the extension of suspension notice.

What does it mean to authenticate evidence?

When you introduce a document or object into evidence, you should authenticate it. Authenticating evidence means asking the witness to provide information that shows the document or object is real, true, and genuine. Authentication is most important when you are introducing documents or objects that the district did not create themselves, such as a diagnosis letter from the student's medical provider.

Authentication is a simple process. You just need to ask the witness to explain how they got a copy of the document and confirm it is a true copy of the document. For example, if you are having the parent introduce a diagnosis letter from the student's medical provider, you would ask the parent how they got a copy of the diagnosis letter (i.e. directly from the student's doctor) and ask them to confirm they are presenting a true copy of the letter.

How do you prepare witnesses for direct examination?

Before hearing, you should meet with all your witnesses to help them prepare for all aspects of their experience testifying. You should explain to them the schedule of the hearing, what the room will look like, and the roles of the people involved in the hearing. You should also talk with them about individual strategies they can use to calm their nerves and remind them that they can request a break during testimony if they need one. Lastly, you should practice with them the questions you plan to ask during hearing—remember, you cannot tell your witness how to answer your questions, and you cannot advise them to say anything that is untrue. But you can remind them to include in their testimony relevant information they have previously shared with you, and you can eliminate questions from your direct examination that yield answers that are not helpful to your client.

During your preparation session, you should take notes on how the witness answers each of your questions. These notes will help you adapt your questions during the hearing—if you notice that the witness forgets to mention important information that they mentioned in the practice session, you can use your notes to come up with an open-ended question on the spot that will prompt the witness to share the missing information.

Chapter 10 Toolkit

Chapter 10 Glossary

Authenticate	Authenticating evidence means asking the witness to provide information that shows the document or object is what you are saying it is, meaning it is real, true, and genuine.
Closed-ended Question	A closed-ended question is a narrow question requiring the witness to respond with yes or no.
Compound Question	Compound questions are when you ask the witness two or more questions at one time.
Objection	An objection is when either you or the school district raises a formal protest to a question, response, or evidence.
Open-ended Question	Questions that prompt a witness to respond in their own words and cannot be answered with a "yes" or "no." These questions are non-leading and typically begin with "who," "what," "when," "where," "why," "how," "tell me more about," "describe," or "explain," as these words encourage a witness to provide a detailed response with their own context and insights.
Student Statement	A statement written by the student to share with the panel their side of the story and what they have learned from the incident.
Letters of Support	Letters from a student's family, friends, and community members highlighting the student's character, positive contributions, and the harmful impact an expulsion would cause.

Direct Examination Drafting and Editing Checklist

Step 1: Outline your direct examination

For each witness, start by outlining your direct examination using the template below. You will refer to your evidence chart when writing the outline.

How to use this template:

1. *Decide which theories of the case to check off for the witness. Check off the theory of the case only if:*
    a. *It is checked off on your evidence chart; and*
    b. *The witness has personal knowledge of facts or documents related to this theory.*
2. *Decide which pieces of evidence to ask the witness about. Add a piece of evidence to the list only if:*
    a. *On your evidence chart, you marked that this piece of evidence matches the theory of the case; and*
    b. *The witness has personal knowledge of the piece of evidence.*

- ☐ The student is innocent of the charges against them
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____
- ☐ The district cannot prove the charges
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____
- ☐ The district did not meet their procedural obligations
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____

- ☐ The district cannot prove secondary findings
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____
- ☐ The student was acting in self-defense
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____
- ☐ Other important considerations apply
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____
        - _____

Step 2: Write your direct examination questions

Once you finish outlining, you will write your direct examination questions. Use the following steps to write your questions.

- ☐ Write introduction questions for the witness, where they will state their name and how they know the student.
- ☐ Write out questions for each section of your outline. Your questions for each section will include general questions about what the witness saw, heard, and experienced and questions about the pieces of evidence that relate to the theory.

Step 3: Edit your direct examination questions

After you write your direct examination questions, you will edit the questions. Use the following editing checklist to revise your questions.

- ☐ Do you start with a few questions that are easy for the witness to answer to help them with their nerves? (i.e. how are you doing today? What grade is student in?)
- ☐ Are your questions open-ended?

    - If not, does an exception apply that makes a closed-ended question appropriate? Exceptions: establishing personal knowledge, authentication, introducing a new topic
- ☐ Are you asking one question at a time instead of compound questions?
- ☐ Are your questions less than seven words?
- ☐ Have you included transition statements to introduce new topics?
- ☐ Do your questions establish the witness' personal knowledge of each topic and piece of evidence?
- ☐ Do your questions allow the witness to authenticate each piece of evidence?
- ☐ Do you know the answer to each question you are asking?
- ☐ Will the witness's answer to each question help your student's case?

Supported Practice

Activity 1

Practice editing closed-ended questions to make them open-ended.

1. Did your student tell you they had a vape in their backpack?

_____

2. Do you remember the principal giving you written notice of the suspension?

_____

3. Did you hear your student tell their side of the story?

_____

Activity 2

Practice editing down long or compound questions.

1. What day did the principal call you and what did you talk about?

_____

2. During the suspension conference on May 15, what evidence did the principal show to you?

_____

3. What are the names of all the people who saw the student get into a fight with his peer?

_____

Independent Practice

Outline direct examination questions for Lenny's dad's testimony using the template below.

- ☐ The student is innocent of the charges against them
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____
- ☐ The district cannot prove the charges
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____
- ☐ The district did not meet their procedural obligations
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____
- ☐ The district cannot prove secondary findings
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____
- ☐ The student was acting in self-defense
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____
- ☐ Other important considerations apply
  - Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____

Draft 10 direct examination questions for Lenny's dad about the extension of suspension conference, specifically about how he prepared for it and the continuing danger standard. Refer to the statement of facts, Extension of Suspension Compliance Tracker, and Chart A from Chapter 4. Include anticipated answers from Lenny's dad.

1. _____
   _____
2. _____
   _____
3. _____
   _____
4. _____
   _____
5. _____
   _____
6. _____
   _____
7. _____
   _____
8. _____
   _____
9. _____
   _____
10. _____
    _____

Answer Key

Supported Practice

Activity 1

Practice editing closed-ended questions to make them open-ended.

1. Did your student tell you they had a vape in their backpack?

You said that Student showed you their backpack. What did they say while you searched?

2. Do you remember the principal giving you written notice of the suspension?

You stated that the principal gave you some papers before you left the school. What were those papers?

3. Did you hear your student tell their side of the story?

You mentioned that you and Student had a meeting with the principal before she was suspended. What did Student say in that meeting?

Activity 2

Practice editing down long or compound questions.

1. What day did the principal call you and what did you talk about?

You mentioned that the principal called you. On what day?

What did you talk about?

2. During the suspension conference on May 15, what evidence did the principal show to you?

You mentioned there was a suspension conference on May 15. I want to talk about what happened during that conference. What evidence did the principal show you?

3. What are the names of all the people who saw the student get into a fight with his peer?

Who saw the fight?

Independent Practice

Outline direct examination questions for Lenny's dad's testimony using the template below.

- [x] The student is innocent of the charges against them

  Lenny's dad has personal knowledge that Lenny is innocent of the brandishing charge because the police officer told him that Lenny did not open the knife.

  - Pieces of evidence for this theory:
    - Dad doesn't have personal knowledge of any of the documents that relate to this theory.

- [ ] The district cannot prove the charges

  Lenny's dad does not have personal knowledge of this theory. The documents that support this theory are witness statements from the other students, Lenny's teacher, and Dean Murphey—Lenny's dad does not have personal knowledge of these facts or documents.

  - Pieces of evidence for this theory:
    - N/A (not asking dad questions about this theory).

- [x] The district did not meet their procedural obligations

  Lenny's dad has personal knowledge of the district's procedural violations, including failures to hold the extension of suspension and expulsion hearing on time.

  - Pieces of evidence for this theory:
    - Suspension notice *(Lenny's dad has personal knowledge because he received this document from the district).*
    - Expulsion notice *(Lenny's dad has personal knowledge because he received this document from the district).*

- [x] The district cannot prove secondary findings

  Lenny's dad has personal knowledge that Lenny is not a "danger" and that other means of correction are more appropriate than expulsion.

  - Pieces of evidence for this theory:
    - Suspension notice *(Lenny's dad has personal knowledge because he received this document from the district).*
    - Lenny's witness statement *(Lenny's dad has personal knowledge if Lenny told him his side of the story about the incident).*
    - Report card *(Lenny's dad has personal knowledge because he received this document from the district).*
    - IEP meeting notes *(Lenny's dad has personal knowledge because he attended the meeting and received this document from the district).*

- [x] The student was acting in self-defense

  Lenny's dad has personal knowledge of the bullying that Lenny experienced.

  - Pieces of evidence for this theory:
    - IEP meeting notes.

- ☐ Other important considerations apply
    - Pieces of evidence for this theory:
        - N/A (not asking dad questions about this theory).

Draft 10 direct examination questions for Lenny's dad about the extension of suspension conference, specifically about how he prepared for it and the continuing danger standard. Include anticipated answers from Lenny's dad.

Note: These questions are a sample and do not represent the only correct answers. You should focus on ensuring (1) your questions are short; (2) you restate facts; (3) your questions are not compound; and (4) you try to anticipate answers to questions to help the narrative flow.

1. **You said that Dean Murphey told you that you could not bring Lenny back to school after his suspension on April 11. What did you do then?**

    Anticipated answer: I got an advocate to help me.

2. **What did your advocate do first?**

    Anticipated answer: My advocate requested records and reminded Dean Murphey that he needed to hold an extension of suspension conference before Lenny's suspension could be extended beyond five schooldays.

3. **So, your advocate reminded Dean Murphey of his obligation to hold an extension of suspension conference. How did he respond to this reminder?**

    Anticipated answer: He was pretty rude. He told us something like I don't need your help to know what the law is, and we could come in the next week for a conference.

4. **How did you prepare for the conference?**

    Anticipated answer: I helped my advocate look through Lenny's records to help us argue that Lenny should be allowed to go back to school. Lenny is a sweet kid who was not going to hurt anyone and just wants to have friends.

5. **What records did you look at?**

    Anticipated answer: We looked at his report cards, his discipline logs, his IEPs, his evaluations, and a few more documents that I cannot remember off the top of my head.

6. **Let's take a look at page 10 of the expulsion packet.**
    a. **Do you recognize this document?**
    b. **What is this document?**

c. **Is this one of the records you reviewed?**

Note: Both a and c should be yes. These questions are closed-ended because they establish personal knowledge and authenticate the document.

7. **What does this report card show?**

Anticipated answer: Lenny's teacher had some nice things to say about him. He tries hard, participates, and he is thoughtful and kind. To me, this is not a kid who wants to hurt other kids nor is he a kid who is really a risk of fighting. He is bullied all the time and gets no help.

8. **How often does Lenny get in trouble at school?**

Anticipated answer: He has trouble focusing, but he can't help it. He has only been in trouble one other time, and that happened this year because of the same bully. I think the school isn't doing enough to help him with the bullying, so he feels alone. I know my kid, and he's not a fighter. He was just really scared.

9. **What happened at the extension of suspension conference?**

Anticipated answer: It was really fast. It seemed like they had already made up their mind. They told me when he was suspended that he wasn't going back, so I think they only held the conference because my advocate told them to. They didn't listen to me when I tried to tell them Lenny is a good kid and they didn't want to look at the records I brought with me.

10. **What happened next?**

Anticipated answer: Nothing. We went home and got a letter a few days later telling me about the hearing.

Chapter 11
Step 4: Cross Exam and Impeachment Prep

Chapter 11 Roadmap

In this chapter, you will learn how to prepare cross examination questions for hearing by drafting closed-ended questions to weaken the district's case. You will also learn how to ***impeach*** *the district's witnesses to undermine their credibility and the plausibility of their case. This is Step 4 in the hearing preparation process.*

Study Guide

- What is cross examination?
- How do you frame cross examination questions?
  - What are closed-ended questions?
  - What issues should you focus on in cross exam?
  - How do you adapt to a witness' answers during cross exam?
  - How does "reading" your witness affect cross exam?
  - How long should cross exam questions be?
  - Should you ask questions you do not know the answers to?
- What is impeachment?
  - What are the **"three C's"** of impeachment?
  - What is impeachment by contradiction?
  - What is impeachment by omission?
  - What is impeachment by bias?
- How and when should you object to district witnesses' testimony?

Toolkit Materials

- Chapter 11 Glossary
- Cross Examination Drafting and Editing Checklist
- Sample cross exam
- Sample impeachment

Supported Practice

- *Practice editing open-ended questions to make them closed-ended questions under 7 words*
- *Practice the "Three C's" of impeachment*

Independent Practice

- *Draft closed-ended questions for Dean Murphey based on his witness statement*
- *Practice impeaching Dean Murphey with the 3-C's*

Study Guide

What is cross examination?

In a hearing, cross examination is when you question the district's witnesses to disprove their case or undermine their witnesses' credibility. The goal is to poke holes in the district's narrative by pointing out areas of ambiguity in their presentation of the facts, gaps in their knowledge or timeline, problems with their provision of due process protections, or biases and lack of personal knowledge for their witnesses.

Strong cross examinations control the pace and scope of questions and do not permit district witnesses to elaborate, explain, or add context you do not ask for. As opposed to the questioning of your own witnesses, discussed in Chapter 10, cross examination questions should be targeted, precise, and lead to only one-word/yes or no answers.

How do you frame cross examination questions?

Unlike with direct examination, it is difficult to prepare all your cross-examination questions ahead of time because you must adapt to the district witness' live testimony during the hearing. However, you can use the evidence chart you created in Chapter 9 to outline and prepare at least some of your questions in advance. The best cross examination questions are (1) closed-ended, (2) concise, and (3) aimed at undermining or casting doubt on specific parts of the witness' testimony or the district's case.

What are closed-ended questions?

Closed-ended questions are questions that are intended to elicit a one-word/yes or no answer and nothing more. As opposed to direct-exam questions, cross-exam questions should be **leading**, which means that the question can suggest or even confirm the answer you seek.

Closed-ended questions often start with words like do/don't/does, are/aren't, did/didn't, will/won't, can/can't, is/isn't, would/wouldn't, have/haven't, and which/who/where, as these words are typically phrased to demand a one-word or yes/no response. You can also frame closed-ended questions in a way that seeks confirmation by starting with a statement and ending with a confirmation, like "correct," "right," or "do you agree."

Here are some examples and non-examples of closed-ended questions:

- *Instead of:* "What did the witness tell you about the fight?"
    - *Ask:* "The witness did not see the student fighting, correct?"
- *Instead of*: "Tell me about the pre-suspension conference."
    - *Ask*: "There was no interpreter at the pre-suspension conference, right?"
- *Instead of:* "Explain how you conducted your investigation."
    - Ask: "You didn't talk to any student witnesses, correct?"

These example questions do not invite detail, only confirmation. They are aimed at undermining a specific part of the district's case or claims. For example, question 1 casts doubt on whether the student was involved in the incident they were accused of, supporting a defense based on innocence. Question 2 is aimed at showing that the district did not provide due process protections throughout the disciplinary process. Question 3 undermines the integrity of the district's investigation, casting doubt on the version of the facts their case presents.

What issues should you focus on in cross exam?

As previously stated, the purpose of cross exam is to undermine or cast doubt on specific parts of the district's case or witness testimony. Thus, you do not need to relitigate the district's entire case or address every single point they made throughout their direct examination.

Like with direct exam preparation, the issues you address through your cross-exam questions will be drawn from your evidence chart from Chapter 9. You will likely need to add questions or adapt your prepared questions in real time to account for what the witness says during direct exam. But you can at least identify ahead of time which pieces of evidence or statements you need to confirm, contradict, or call into question in line with your theory of the case. Thus, you can draft cross examination questions in advance and edit them during the hearing.

How do you adapt to a witness' answers during cross exam?

A good practice tip is to have your prepared cross examination questions in front of you, either printed or ideally on a computer. This way, you can add, edit, or remove your prepared questions during the hearing as you listen to the district's direct exam.

Again, you should only ask questions you know the answers to or can predict the answers with reasonable certainty. If a district witness answers a closed-ended question in a way you do not expect, suspect is not truthful, or contradicts the evidence or their past testimony, then you can impeach them. Impeachment is discussed further below.

How does "reading" your witness affect cross exam?

During the hearing, pay attention to how district witnesses respond to questions, remember the facts, and talk about the student. You should also pay attention to how the panel responds to the evidence as it is presented. You should gauge:

- How credible does the witness seem? Does the witness seem nervous? Hostile? Defensive? Contradictory? Unprepared?
- Does the panel seem to like the witness?
- Does the panel react to certain facts or parts of the narrative?
- Does the witness seem to like your client or be on your client's side?
- Is the witness' testimony critical to the district's case?

In addition to these questions, you should also consider (1) whether you can establish a rapport with the witness so your questioning will appear reasonable and encourage them to answer truthfully without the need for impeachment; (2) whether the witness is unprepared or defensive but engaging with them assertively will appear like bullying and turn off the panel; and (3) whether the panel already appears to dislike the witness, allowing you to use your questions to make them appear even less likable. Observing the witness and panel allows you to strategically adapt your advocacy style and presentation of your questions to your benefit.

How long should cross exam questions be?

As with direct exam questions, try to limit the length of cross exam questions to around 7 words. Again, you can keep questions short by restating testimony before asking a question and by eliminating compound questions. Here are some examples:

- *Instead of*: When you called Lenny's dad, did you ask him to pick up Lenny at school?
    - *Ask*: You stated that you called Mr. Pugg that day. You asked him to pick up Lenny, correct?
- *Instead of*: When did you call Mr. Pugg, and what did you say to him on the phone?
    - *Ask*: You called Mr. Pugg at 3 pm, correct?
    - *Ask*: You told Mr. Pugg to pick up Lenny, correct?

Should you ask questions you do not know the answers to?

During cross examination, you should not ask questions that you do not know the answers to because this risks the witness answering in a way that harms your student's case.

What is impeachment?

Impeachment is a critical aspect of cross exam. You will use impeachment to discredit a witness by (1) attacking their credibility and (2) convincing the panel that their testimony is false or unreliable. Through impeachment, you highlight the witness' prior inconsistent statements, biases, contradictions, or even issues with their character.

What are the "three C's" of impeachment?

The "three C's" of impeachment refer to the three steps you should follow whenever you are impeaching a witness. The three C's are: (1) **confirm**; (2) **credit**; and (3) **confront**.

Confirm means asking the witness to repeat the inaccurate statement that you are planning to impeach them on. For example:

- *Advocate: You stated earlier that the vape was a marijuana vape, correct?*

Credit is where you ask the witness to build up the accuracy of their previous statement, so you can show this previous statement is more reliable than their current testimony.

In our example, the witness has testified that the vape contained marijuana. Let's assume this contradicts the incident report that they wrote, which states that staff never tested the vape for marijuana, and, in fact, it contained only an empty nicotine cannister. You want to show the panel that the incident report is more reliable than the witness' current testimony. So, you will now ask questions to get the witness to credit the accuracy of the incident report for the panel. This could look like:

- *Advocate: The District trains staff on incident reporting, correct?*
- *Principal: Yes*
- *Advocate: You have written incident reports before, correct?*
- *Principal: Yes.*
- *Advocate: Please turn to exhibit G. This is your signature, correct?*
- *Principal: Yes*
- *Advocate: You wrote this report on the day of the incident, correct?*
- *Witness: Yes*
- *Advocate: The district expects staff to write accurate incident reports?*
- *Principal: Yes, of course.*

Confront is asking the witness about their prior inconsistent statement. For example:

- *Advocate: I am going to read you a quote from your incident report. "The vape was an empty nicotine vape." Did I read that correctly?*
- *Principal: Yes.*

It is tempting to end the "confront" part of impeachment by asking the witness to confirm they are lying. In the example above, this would be something like – "So you just contradicted your earlier testimony?" or "So the vape was not marijuana?" But you must avoid doing this, as it leaves the door open for the witness to disagree with the argument or get defensive. Save these points for your closing argument.

What is impeachment by contradiction?

Impeachment by contradiction means showing that the school district's witness is not trustworthy because their written statement has relevant information that directly conflicts with something they state in their testimony.

For instance, imagine that a principal's witness statement accuses a student of having a *closed* pocketknife in their backpack. Then, during his testimony at the expulsion hearing, the principal accuses the student of having an *open* pocketknife in his backpack. You should impeach the principal by contradiction because the principal's statement claims the pocketknife was closed, but in his testimony, he claimed that it was open.

For the "credit" portion of the three C's, you should ask questions that emphasize that the staff member's testimony was *accurate* when writing their original statement, meaning that everything they wrote in the statement is true and correct. Emphasizing accuracy helps show that the contradiction is notable and makes the witness' hearing testimony questionable.

What is impeachment by omission?

Impeachment by omission means showing that the school district's witness is not trustworthy because they failed to mention important information in their written statement and are only now mentioning it for the first time in their testimony. In expulsion hearings, this type of impeachment tends to be even more common than impeachment by contradiction since district witnesses often add new embellished information in their testimony that they never included in their written statement.

For instance, imagine that a principal's witness statement accuses a student of having a closed pocketknife in their backpack but never claims that the student threatened anyone with the knife. Then, during his testimony at the expulsion hearing, the principal accuses the student of pulling the knife out of his backpack, pointing it at a peer, and threatening to stab the peer. You should impeach the principal by omission because the principal failed to include this allegation in his statement, even though it was important information to document.

For the "credit" portion of the three C's, your questions should emphasize the staff member was *thorough* when writing their original statement, meaning that they would have included all important information in their statement. Emphasizing thoroughness helps show that the omission is notable and makes the witness' testimony questionable.

What is impeachment by bias?

Impeachment by bias means showing that the school district's witness is not trustworthy because they have a motive to lie due to a personal interest in the case, a friendship with one of the parties, a dislike of one of the parties, or some type of stake in the case's outcome. By showing that the witness is biased, you help convince the panel that they should not trust their testimony. Common examples of bias in expulsion cases include:

- The witness has previously bullied your client or expressed a dislike towards them;
- The witness is being pressured to testify by the school district;
- The witness previously expressed wanting your client to be kicked out of school; or
- The witness is friends with the administrator who made the expulsion recommendation.

To impeach based on bias, you simply need to ask closed-ended, leading questions about the source of the bias. As with all cross-exam questions, make sure you only ask questions you know the answer to, and, ideally, can back up with written documentation.

How and when should you object to district witnesses' testimony?

As a reminder, an objection is when either you or the school district raises a formal protest to a question, response, or evidence. Just as school district representatives are allowed to object to your questions, you can object to their questions. The most common objections are:

Type of Objection	Meaning of Objection
Relevance	The school district representative is asking a question about something that does not relate to the issues in the expulsion hearing.
Compound	The school district representative asked two questions at the same time.
Vague or ambiguous	The school district representative's question is unclear.
Leading	The school district representative is asking their witness close-ended rather than open-ended questions.

If you object, the witness must wait to answer until the person running the hearing decides on the objection. If the objection is "sustained" (approved), then the witness cannot answer the question, and the school district representative will need to rephrase their question. If the objection is "overruled" (denied), then the witness must answer the school district representative's question without them rephrasing it.

You should object if you hear the school district representative ask a question or try to introduce evidence that is irrelevant, compound, vague, or ambiguous. You can object by stating "objection" and then the reason for your objection (relevance, compound, vague or ambiguous). You do not need to give any further explanation for your objection.

Objections help achieve two goals: (1) preventing the school district from bringing in testimony or evidence that is unfair to your client; (2) disrupting the flow of the school representative's questions and giving your witness a chance to gather their thoughts. Even if your objection is overruled, you will create a record for appeal that evidence or testimony was wrongly admitted.

Chapter 11 Toolkit

Chapter 11 Glossary

Confirm	The first part of the three-C's of impeachment, where you ask the witness to verify that they said the statement or testimony you are challenging.
Confront	The final part of the three-C's of impeachment, where you point out the witness' prior inconsistent statement.
Credit	The second part of the three-C's of impeachment, where you ask the witness to build up the accuracy of their previous statement. You want the witness to help you show that their previous statement is more credible than their current testimony.
Impeachment	The process of discrediting a witness by (1) attacking their credibility and (2) convincing the panel that their testimony is false or unreliable. Through impeachment, you highlight the witness' prior inconsistent statements, biases, contradictions, or even issues with their character.
Leading Question	A question that suggests or confirms the answer you are seeking.
Three-C's	Refers to the three steps (confirm, credit, confront) you should follow whenever you are trying to impeach a witness.

Cross Examination Drafting and Editing Checklist

Step 1: Outline your cross examination

Make a list of confirmed or potential district witnesses for cross exam. Potential witnesses may include anyone who witnessed the incident or anyone who wrote a statement. For each witness, start by outlining your cross examination using the template below. You will refer to your evidence chart when writing the outline.

How to use this template:

1. *Decide which theories of the case to check off for the witness. Check off a theory only if:*
    a. *It is checked off on your evidence chart; and*
    b. *The witness has personal knowledge of facts or documents related to this theory. For most witnesses you cross examine, personal knowledge means that the witness says something in their written statement that relates to the theory of the case.*

2. *Decide which pieces of evidence to ask the witness about. Add evidence to the list only if:*
    a. *On your evidence chart, you marked that this piece of evidence matches the theory of the case; and*
    b. *The witness has personal knowledge of the piece of evidence. Witnesses always have personal knowledge of their own written statements. They also have personal knowledge of documents created based on meetings they attended or documents they reviewed before the expulsion hearing.*

☐ The student is innocent of the charges against them
- Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____

☐ The district cannot prove the charges
- Pieces of evidence for this theory:
    - _____
    - _____
    - _____
    - _____

- ☐ The district did not meet their procedural obligations
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____

- ☐ The district cannot prove secondary findings
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____

- ☐ The student was acting in self-defense
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____

- ☐ Other important considerations apply
    - Pieces of evidence for this theory:
        - _____
        - _____
        - _____
        - _____

Step 2: Write your cross-examination questions

Once you finish outlining, you will write your cross-examination questions. Use the following steps to write your questions.

- ☐ Write out the questions for each section of your outline based on what you expect the witness will say when they testify.
- ☐ Draft impeachment questions based on how you expect the witness might contradict their written statement or add new facts during their testimony.

Step 3: Edit your cross-examination questions

After you write your cross-examination questions, you will edit the questions. Use the following editing checklist to revise your questions.

- ☐ Are your questions closed-ended?
- ☐ Are your questions leading?
- ☐ Are you asking one question at a time instead of compound questions?
- ☐ Are your questions around seven words or less?
- ☐ Have you included transition statements to introduce new topics?
- ☐ Do your questions establish the witness' personal knowledge of each topic and piece of evidence?
- ☐ Do your questions allow the witness to authenticate each piece of evidence?
- ☐ Do you know the answer to each question you are asking?
- ☐ Will the witness' answer help your student's case?
- ☐ Do you use the "three C's" when impeaching the witness?

Sample Cross Examination

These are real questions we drafted for our cases. Names have been changed.

- You testified that Student 1 wrote a witness statement claiming that Lucy sold her a vape. Student 1 says that she was alone at the time?
- Student 1 was the only witness to this alleged sale?
- Student 1 is not testifying today?
- There's no video footage of this alleged sale?
- You searched Lucy's backpack on February 11?
- You didn't find drugs in her backpack?
- You didn't find drug paraphernalia in her backpack?
- Lucy offered to empty her pockets?
- There were no drugs in her pockets?
- There was no paraphernalia in her pockets?
- On several other days before February 11, you searched Lucy's backpack?
- You never found drugs?
- You never found drug paraphernalia?
- You never saw Lucy sell drugs to Student 1?
- You never saw Lucy sell drug paraphernalia to Student 1?
- You never saw Lucy possess drugs?
- You never saw Lucy possess drug paraphernalia?
- You met with Lucy on February 11?
- During this meeting, Lucy denied selling drugs?
- Lucy wrote two statements?
- In both statements, Lucy denied selling drugs?
- She stated that another student sold the vape to Student 1?
- I noticed there's no statement from the other student in the packet. Did you question that student?
- Lucy's discipline record is in the evidence packet?
- Her record doesn't include any other drug related incidents?

Sample Impeachment

These are real impeachment questions we previously drafted for our cases. Names have been changed.

Impeachment by Contradiction

Confirm

- You testified that Student 1 said Jenny sold her a vape?

Credit

- Student 1 wrote a statement before this hearing?
- Student 1's statement is dated December 6, 2025?
- This was the day after the alleged incident, correct?
- She signed her name at the bottom of the statement?
- The form directs her to describe "clearly and accurately what occurred"?
- The form also directs her to "describe the incident in detail"?
- She signed the statement under penalty of perjury?

Confront

- Can you go to page 2 of the third statement?
- I'm going to read this out loud to you: "Student 2 sold me the vape."
- I read that correctly?

Impeachment by Omission

Confirm.

- You testified that you recommended Lestor for expulsion because he threatened students with a knife, right?

Credit:

- Turn to page 1 of expulsion packet.
- Review the administrator statement. That's your signature on the bottom?
- You wrote this statement, correct?
- You wrote this statement on the day of the incident?
- Let's talk about the district's requirements when an administrator recommends a student for expulsion. The district requires you to prepare a statement?
- The statements must include all important information about the incident?
- Your statement fully describes Lestor's incident?

Confront.

- But your statement never mentions Lenny threatening anyone, correct?

Impeachment by Bias

- Your district provides discipline procedures training?
- You are expected to comply with these discipline procedures, correct?

- Your District requires written notification of disciplinary incidents be sent to guardians?
- Turn to Exhibit K, page 3. This email is sent from your principal account, correct?
- This email was sent on October 30, 2025?
- Please read the first paragraph aloud: "Come get your son. He continues to be a thorn in my side, and if he doesn't learn to shut up and sit down, I am kicking him out of my school."

Supported Practice

Activity 1

Practice editing long, open-ended questions to make them closed-ended and under 7 words. For each open-ended question, you will likely ask a series of closed-ended questions to get the information you are looking for. You can make up facts to allow you to craft closed-ended questions.

1. Tell me about your interviews with the two student witnesses.

_____
_____
_____

2. What happened during the extension of suspension conference?

_____
_____
_____

3. What happened when you spoke to my client about the incident?

_____
_____
_____

Activity 2

Fill in the "credit" part of the 3-C's to impeach the district's witness.

Confirm

You testified that you held the extension of suspension conference before Student's 5-day suspension ended. Is that correct?

Credit

_____
_____
_____

Confront

Is this a true and correct copy of the suspension notice?

The notice says the suspension ended March 1, correct?

The extension of suspension conference was March 3, correct?

Independent Practice

Activity 1

Draft 10 closed-ended questions for Dean Murphey based on his witness statement (found on p. 7 of the expulsion packet from Chapter 9)

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____

Activity 2

Assume that during his testimony, Dean Murphey states: "I approached the group of students and heard them making loud noises and yelling. I saw Lenny in the middle of the group. He looked very upset, and I saw him tightly holding an open knife in his right hand. He was waving the knife and yelling, 'I'm going to stab you' to the group of students."

1. Compare Dean Murphey's witness statement to his testimony. Are you impeaching Dean Murphey by omission or by contradiction? _____
2. Draft your impeachment of Dean Murphey following the three C's format:

Confirm

_____

_____

_____

Credit

_____

_____

_____

_____

_____

_____

_____

_____

_____

Confront

_____

_____

_____

Answer Key

Supported Practice

Activity 1

These are sample answers and do not represent the only correct answers.

1. Tell me about your interviews with the two student witnesses.

You interviewed the two student witnesses?

Neither of the students witnessed the fight, correct?

They only overheard from outside, correct?

And neither saw Student start the fight, correct?

2. What happened during the extension of suspension conference?

You invited Parent to the extension of suspension conference?

You invited them the day of, right?

Parent asked you to reschedule the conference?

You didn't reschedule the conference?

So, Parent could not attend?

3. What happened when you spoke to my client about the incident?

You talked to Student after the fight?

You asked Student to write a statement?

Are you aware Student has a disability?

His IEP states he cannot write clearly?

Or write in complete sentences?

Or communicate his feelings in writing?

You didn't let him tell his story verbally?

Activity 2

Fill in the "credit" part of the 3-C's to impeach the district's witness.

Confirm

You testified that you held the extension of suspension conference before Student's 5-day suspension was over. Is that correct?

Credit

Student received a suspension notice, correct?

Please look at the notice. That's your signature on the bottom?

You wrote this notice?

The notice includes dates for the suspension?

This is the typical way for families to receive notice of a suspension?

Suspension notices in your district are expected to be accurate?

Confront

Is this a true and correct copy of the suspension notice?

The notice says the suspension ended March 1, correct?

The extension of suspension conference was March 3, correct?

Independent Practice

Activity 1

Draft 10 closed-ended questions for Dean Murphey based on his witness statement (found on p. 7 of the expulsion packet from Chapter 9).

Note: there are many possible answers here, depending on which part of the statement you chose to focus your questioning. Here is one example:

1. Do you know Lenny Pugg?
2. Lenny wrote a statement on April 1?
3. He stated Student 1 was bullying him?
4. You reviewed that statement?
5. Lenny wrote his statement more than a week before the April 11 incident?
6. The school did not investigate the bullying, correct?
7. You did not develop a safety plan? You did not hold a conference?
8. You are aware that Lenny has an IEP?
9. His IEP is for ADHD?
10. His ADHD makes him act impulsively?

Activity 2

1. Compare Dean Murphey's witness statement to his testimony. Are you impeaching Dean Murphey by omission or by contradiction? This is impeachment by omission because Dean Murphey is not directly contradicting anything in his witness statement; instead, he is adding significant new facts that he did not include in his witness statement.
2. Draft your impeachment of Dean Murphey following the three C's format:

Confirm

You testified that you saw Lenny holding an open knife, correct?

You also testified that you saw Lenny wave the knife, correct?

You also testified that you heard Lenny yell, "I'm going to stab you"?

Credit

You wrote a witness statement before this hearing?

You wrote the statement over one week ago?

You sent the Superintendent a copy of this statement?

The district expects you to write a statement before an expulsion hearing?

These statements are routinely included as evidence for the hearing?

You knew the panel would review this statement?

You thoroughly described the incident in your statement?

You included all important facts about the incident in your statement?

Confront

Your statement does not say that Lenny was holding an open knife, correct?

Your statement does not say that Lenny waved the knife, correct?

Your statement does not say that Lenny yelled, "I'm going to stab you," correct?

Chapter 12
Step 5: Preparing Opening Statement and Closing Argument

Chapter 12 Roadmap

In this chapter, you will learn to prepare an opening statement and closing argument that tells your student's story and convinces the panel not to expel. This is Step 5 in the hearing preparation process.

Study Guide

- What is an opening statement?
  - What is the purpose of an opening statement?
  - What should I talk about in my opening statement?
  - Should an opening statement be argumentative?
- What is a closing argument?
  - What is the purpose of a closing argument?
  - What should I talk about in my closing argument?
  - Should I talk about the school district's procedural and substantive violations in my closing argument?

Toolkit Materials

- Chapter 12 Glossary
- Roadmap for preparing opening statement
- Roadmap for preparing closing argument

Supported Practice

- *Review a sample and decide whether it is more appropriate as an opening statement or closing argument.*
- *Edit an opening statement and a closing argument to improve it.*

Independent Practice

- *Draft an opening statement for Lenny's case.*

Study Guide

What is an opening statement?

What is the purpose of an opening statement?

An opening statement is a roadmap for your case. Here, you introduce your client, explain the issues, and preview what the facts, evidence, and witness testimony will show.

What should I talk about in my opening statement?

A strong opening statement "sets the scene" for the panel, introducing them to the key issues, facts, and evidence and providing them with a roadmap for the hearing: who your client is, what the evidence will show, what the witnesses will say, and what the outcome should be.

Strong opening statements have a simple and clear structure, which could look like:

1. **Introduction**: Begin with an attention-grabbing opening. This could be a story, a question, or a strong fact for your case.
2. **Case overview**: This should be a brief sentence or two that introduces your client and a roadmap of the core issues. One way to structure this might be numbering your points (i.e. the facts will show three things…).
3. **Case chronology**: Again, any retelling of the facts should be very brief, as your narrative will come out through witnesses and evidence in the hearing. However, a sequence of the incident or the due process issues can be an effective way to preview the legal violations or holes in the district's case. Within this chronology, you can introduce the key evidence and witnesses.
4. **Closing**: End with a strong statement that reinforces your narrative and leaves a lasting impression on the panel.

Opening statements often include phrases like:

- Today, the facts will show three things…
- The evidence will show that…
- The facts of this case show that…
- Testimony from Student's Parent will confirm that…

An opening statement can also establish credibility early on. The way you tell your story, talk about your client, and even talk about district staff can make you seem reasonable or unreasonable early on. You want to build trust with the panel, so make eye contact if you are comfortable, use body language that presents a calm and collected front, and keep your tone even and respectful. You can be firm but avoid being argumentative at this stage.

In drafting your opening statement, keep your audience in mind. Your panel will be comprised of school principals or other school staff. They will have some understanding of the law but

will likely empathize with the school more easily than your student. This means you should emphasize your student's unique strengths and interests and lean into the facts to show (but not argue) legal violations, gaps in the facts, and the need for supports over exclusion.

The most important thing is to tell a story in a structured and simple way. Simplicity is key in an opening statement. Remember: **keep it brief, make it memorable, and avoid argument.** You can and should draft your opening statement in advance.

Should an opening statement be argumentative?

Your opening statement should be persuasive but not argumentative. You should preview the facts without arguing them and provide a roadmap without laying out your entire case. Save your arguments for closing after you have established more trust with the panel and shown them the evidence and witness testimony.

What is a closing argument?

What is the purpose of a closing argument?

A closing argument is your final opportunity to weave a coherent story and persuade the panel to rule in favor of your student. Its purpose is to synthesize the evidence and point out inferences from it, highlight key facts, address witness credibility, and, most importantly, connect the facts to the law to argue why the panel must find in favor of your student.

What should I talk about in my closing argument?

Your closing argument should summarize the evidence, connect it to the law, and justify the conclusion you want the panel to reach. Like with the opening statement, strong closing arguments have clear structure. Here is a sample outline for one:

1. **Introduction**: Here you can return to your theory of the case, referencing back to your opening statement's roadmap or retelling the incident from the student's perspective. The key here is to draw the panel in before you go through the evidence.

2. **Legal Framework**: This is where you explain the applicable laws to the panel. Your closing statement should include the following:
    a. A statement explaining that the district has the burden of proving its case by substantial evidence;
    b. An outline of the elements of the violation the student is being accused of, reiterating that the district must prove all elements;
    c. A reminder that the district also must prove they followed all required procedures at the suspension, extension of suspension, and expulsion stages; and
    d. If relevant, a reminder that the district must prove secondary findings are met.

3. **Legal Argument (see next question for how to structure the legal argument)**: Argue your theories of the case, such as the student did not violate the Education Code, the district cannot prove the violation, the district does not have jurisdiction to expel, the district violated required procedures, or secondary findings are not met.

4. **Conclusion**; You should end your closing argument by briefly repeating the reasons your student cannot be expelled and asking the panel to vote not to expel your student. If you can, it is also compelling to tie in your case theme one last time.

As with an opening statement, you can and should prepare your closing argument in advance as best as you can. However, as with cross exam, you will likely add to or adapt your closing argument based on testimony and evidence that comes out at hearing.

Additionally, preparing your closing argument in advance also allows you to print and submit it to the panel as a **closing brief**. Leaving your closing brief with the panel allows them to review your arguments in writing while they deliberate and sift through all the evidence and testimony.

Should I talk about the school district's procedural and substantive violations in my closing argument?

You should argue all the school district's procedural and substantive violations in your closing argument and use these to show why your student should not be expelled. You should structure your arguments using the following format:

1. **Conclusion:** Name the conclusion you want the panel to reach.
    a. *For example:* The school district broke the law by failing to provide the parent with a written hearing notice at least 10 calendar days before the hearing.
2. **Rule:** Name the specific Education Code Section that the school district violated.
    a. *For example:* Education Code Section 48918(b) requires school districts to provide parents a written expulsion hearing notice at least 10 calendar days before the hearing.
3. **Argument:** Using the facts of your case, show that the school district broke the rule.
    a. *For example:* Here, the school district did not send the written notice until two days before the hearing, much less than the 10 days required by law.
4. **Conclusion:** Name your conclusion one more time and emphasize that the student cannot be expelled because of the violation.
    a. *For example:* The school district violated the requirement to provide written notice at least 10 calendar days before the expulsion hearing, so the student cannot be expelled.

Chapter 12 Toolkit

Chapter 12 Glossary

Closing Brief	A printed version of your closing argument submitted to the hearing panel with your evidence packet.

Roadmap for Preparing an Opening Statement

Introduction	Is there an attention-grabbing opening (i.e. a story, a question, or a strong fact)?

Case Overview	Have you introduced your client? • What do they like? • Strengths? Challenges? Disabilities? • Behavior history? Have you set out a roadmap? • Have you stated what the facts will show? • Is there a structure to your outline of the facts (i.e., the facts will show three things…)?

Case Chronology	Have you **briefly** previewed the facts of the incident? Have you **briefly** previewed the facts that show due process violations? Have you **briefly** introduced the key facts and evidence?

Closing	Have you ended with a strong statement that reinforces your narrative and leaves a lasting impression on the panel?

Editing Checklist

- ☐ Is your tone even and reasonable?
- ☐ Have you introduced who your client is?
- ☐ Have you eliminated argumentative language?
- ☐ Have you previewed the facts, evidence, and witnesses persuasively but objectively?
- ☐ Can you give your opening statement in 2-4 minutes?

Roadmap for Preparing a Closing Argument

Introduction	Do you return back to the theory of the case? Do you call back to what your opening statement promised?

Legal Framework	Have you introduced the burden of proof? Have you mentioned the substantial evidence standard? Have you laid out all the district must prove, including: • The elements of the alleged violation; • That the district followed required procedures in the suspension, extension of suspension, and expulsion; and • That secondary findings (if applicable) are met? Have you reminded the panel that the district must prove all elements to expel?

Legal Argument	Have you listed every legal violation, including substantive and procedural violations? Have you connected the law to your facts using the "CRAC" format?
Violation 1: • Conclusion: • Rule: • Argument: • Conclusion:	

Violation 2: • Conclusion: • Rule: • Argument: • Conclusion:
Violation 3: • Conclusion: • Rule: • Argument: • Conclusion:

Closing	Have you clearly stated what conclusion the law and fact require? Have you briefly repeated the reasons the student cannot be expelled? Have you asked the panel to vote not to expel your student? Have you tied your case theme in one last time?

Editing Checklist

- ☐ Have you presented the legal framework?
- ☐ Have you tied together the evidence presented?
- ☐ Have you highlighted key facts?
- ☐ Have you addressed witness credibility?
- ☐ Have you connected law to fact?
- ☐ Have you laid out the "legal" conclusion?
- ☐ Can you deliver your closing argument in 10 minutes or less?
- ☐ Have you prepared a closing brief to hand to the panel?

Supported Practice

Activity 1

Review the sample excerpts below and decide whether they are more appropriate as an opening statement or closing argument. Explain your reasoning.

1. This case is about a 15-year-old girl named Lori Gonzales. We are here today because the District is recommending Lori for expulsion despite, as evidence and testimony will show, not affording her or her parents with the procedural protections available to all students, and even more troubling, the protections the law provides to students with suspected disabilities.

This excerpt is more appropriate as a:

- ☐ Opening statement
- ☐ Closing argument

Explain your reasoning: _____

_____

_____

_____

2. The evidence will show that Lori was coerced by District staff she trusted into changing her written statement twice to add incriminating and untrue information after she had already written a truthful and thorough statement. District staff did this in front of her mom and intentionally in English so her Spanish-speaking mother could not understand or intervene.

This excerpt is more appropriate as a:

- ☐ Opening statement
- ☐ Closing argument

Explain your reasoning: _____

_____

_____

_____

3. This case comes down to this panel understanding and accepting three facts:

   (1) First, Lori made a mistake, for which she accepts responsibility.
   (2) Second, Lori is a bright student who lives with mental health disabilities, including anxiety and depression, that have contributed to a long and documented pattern of self-destructive behavior, often occurring at school. The District had plenty of basis and opportunity to evaluate and provide Lori with services, but it did not. And because Lori was underserved for years, her disability-related behavior escalated, leading to the incident that brings us here today.
   (3) And third, the District's procedural violations in the expulsion process have made it impossible for this family and this student to receive a fair hearing here today.

   In light of these three facts, which I will walk you through in detail now, I want you to remember that expulsion is not only inappropriate in this case but also is certainly not your only option. The law, the interests of justice, and the needs of the student whose expulsion you are considering today demand otherwise.

   This excerpt is more appropriate as a:
   ☐ Opening statement
   ☐ Closing argument

Explain your reasoning: _____

_____

_____

_____

_____

Activity 2

Review the draft legal framework to the closing argument below and edit it to improve it.

Lori is being recommended for expulsion for possessing a vape. This means that the District has to prove she had a vape. The District also has to prove that they followed all of the procedures for expelling her. They also have to show secondary findings.

Independent Practice

Draft an opening statement for Lenny.

Answer Key

Supported Practice

Activity 1

Review the sample excerpts below and decide whether they are more appropriate as an opening statement or closing argument. Explain your reasoning.

1. Prompt 1:

This excerpt is more appropriate as a:

- ☒ Opening statement
- ☐ Closing argument

Explain your reasoning: This excerpt is better for an opening statement because it previews what the facts and evidence will show instead of making legal arguments.

2. Prompt 2:

This excerpt is more appropriate as a:

- ☒ Opening statement
- ☐ Closing argument

Explain your reasoning: This excerpt is better for an opening statement because it previews what the facts and evidence will show instead of making legal arguments. It has a persuasive but not an argumentative tone.

3. . Prompt 3:

This excerpt is more appropriate as a:

- ☐ Opening statement
- ☒ Closing argument

Explain your reasoning: This excerpt is better for a closing argument, since it makes legal arguments for a particular outcome. It also provides a roadmap for summing up the facts and evidence that came in through the hearing.

Activity 2

Review the draft legal framework to the closing argument below and edit it to improve it.

Lori is being recommended for expulsion for possessing a vape. This means that the District has to prove she had a vape. The District also has to prove that they followed all of the procedures for expelling her. They also have to show secondary findings.

Sample answer:

The District has what's called the burden of proof in this hearing. That means it is not Lori's job to prove that she is innocent. It is the District's job to prove its case by substantial evidence. This is a much higher standard than the reasonable suspicion standard that allows an administrator to question or search a student. Substantial evidence means more than a 50% chance. In other words, the District must show you that their version of events makes more sense and is more likely to be true than any other explanation.

To expel Lori, the District must prove three separate things to you by substantial evidence:

1. Lori possessed a vape on campus;
2. The District followed all the required procedures at the suspension, extension of suspension, and expulsion stages; and
3. The secondary findings have been met. This means that either:
    a. Lori poses a continuing danger if she were to return to campus; or
    b. Other means of correction have failed or cannot be used to address this behavior.

These are called the "elements" of their case. It is a checklist, and the District needs to check off all three of these. We are going to go through each of these elements one by one and show that they have not proven any of the elements of their case.

Independent Practice

Draft an opening statement for Lenny.

Sample answer:

This case is about the damage that a school can cause by ignoring a child who is clearly struggling. We are here because City Unified School District and Neighborhood Elementary School left a sweet, smart, and energetic 3rd grader entirely on his own when it came to navigating pervasive bullying and near-daily humiliation on the basis of unmet disability-related needs. This bullying happened regularly, in front of school staff, and proceeded despite Lenny reporting it to administration. Lenny tried to get help from adults he thought he could trust and was met with only school discipline and empty platitudes. As the bullying worsened in recent weeks, and threats became more explicit, Lenny believed that he was in danger and that no one would help him.

The District is accusing Lenny Pugg of creating a hostile educational environment, possessing a knife, and brandishing a knife. However, the evidence will show that the pocketknife Lenny brought to school was less than 3.5 inches long, does not lock into place, and is not a tool used primarily for stabbing. Further, the evidence will show that Lenny did not open the pocketknife at anyone in a threatening manner. Also, the evidence will show that while Lenny's actions

yielded a minor reaction from his peers, they did not disrupt instruction or create any major disorder on campus.

Second, you will see evidence and hear testimony about Lenny's kind and empathetic nature, and you will hear that no staff member has ever expressed concern that he is a "danger" to campus. You will also hear that there are many supports and interventions the District has not yet tried for Lenny, including providing him appropriate counseling services and taking meaningful steps to address the bullying he has been experiencing.

Third, you will hear about the District's missteps at each stage of the discipline process. You will hear that during the suspension conference, the principal did not tell Lenny what rule violations he was being accused of, and he did not show Lenny the evidence he had gathered against him. Then, you will hear how the District did not hold the extension of suspension conference within five schooldays of the suspension, and it extended Lenny's suspension not because he posed any "danger" to campus but merely because he had been recommended for expulsion. Lastly, you will hear how Lenny's dads received a copy of the expulsion evidence packet just three days ago, making it very difficult for them to prepare for this hearing today.

We look forward to this opportunity to present evidence to this panel, and at the end of this hearing, we are going to talk with you again about everything that you've seen and heard today. At that point, we believe that the facts will lead you to the only possible conclusion: City Unified School District cannot expel Lenny, and it must finally act to protect him from further bullying and ensure his disability-related needs are met.

Chapter 13
The Expulsion Hearing

Chapter 13 Roadmap

In this chapter, you will learn about the structure of an expulsion hearing, how to adapt your strategy using the hearsay only rule, how to spot improper panel members, and how to create a record during hearing for appeal.

Study Guide

- How can I tell if any of the hearing panel members are improper?
- What is the structure of an expulsion hearing?
- How does the hearsay only rule affect my strategy at hearing?
- How do I create a record of the hearing for appeal?

Toolkit Materials

- Chapter 13 Glossary

Supported Practice

- *Practice objecting to school district witness questions.*

Independent Practice

- *Record yourself delivering your opening and closing statement to reflect on and refine them.*

Study Guide

How can I tell if any of the hearing panel members are improper?

For expulsion hearings, school districts can either have the school board or an impartial panel of three or more **certificated staff members** preside over the case. Most use a panel. Panel members cannot be on the school board, and they cannot work at the student's school.

At the beginning of the expulsion hearing, panel members typically introduce themselves, including their name, the school they work at, and their role at the school. If the panel members do not introduce themselves, you should ask them to do so. During the expulsion hearing, you should ask the school district to remove any panel member who is: (1) not a certificated staff member; (2) is a member of the school board; or (3) works at the school the student attends. If an improper panel expels your student, this is a basis for appealing the expulsion.

What is the structure of an expulsion hearing?

The law does not require districts to follow a particular structure for the hearing, so it can vary. In every hearing, districts are at minimum required to allow each side a chance to present witnesses and evidence in their own favor and ask questions of the other side's witnesses and about their evidence. Many school districts choose to use a structure similar to a trial:

1. District provides their opening statement
2. Student provides their opening statement
3. District presents their witnesses and evidence (student can cross exam)
4. Student presents their witnesses and evidence (district can cross exam)
5. School district provides their closing argument
6. Student provides their closing argument

Notice that the school district goes first at each stage of the hearing because they have the burden of proof in the case. If you are attending an expulsion hearing in a school district that you have not previously worked with, you should ask them ahead of time what structure they follow for expulsion hearings and if there are any time constraints.

If you do not know the structure ahead of time, it is best to prepare for all stages that we covered in the previous chapters, including an opening statement, cross examination, direct examination, and closing argument. You might not be able to deliver all portions that you prepared (i.e. some districts do not allow opening statements), but it is best to overprepare.

How does the hearsay only rule affect my strategy at hearing?

As stated in Chapter 8, the hearsay only rule prohibits school districts from expelling students when the school district's case is based on *only* hearsay evidence. The one exception to this rule is if testifying at hearing would cause a witness "an unreasonable risk of psychological or

physical harm," then the school district can present a sworn declaration signed under penalty of perjury instead of having the witness testify in person.

The expulsion hearing panel must agree to accept the sworn declarations before the school district can use them at hearing. This means that you can ask questions at the hearing about the sworn statement to poke holes in the assertion that the witness refused to testify due to "an unreasonable risk of psychological or personal harm" or that the statement was truly made with an understanding of what penalty of perjury means. This includes questions about the circumstances under which the statement was made—Did the student say that were fearful? Why were they fearful? Was that fear reasonable? Did the district explain what perjury means? Since the topic of student fear is sensitive, you should be gentle when posing these questions.

Further, if the district only presents hearsay evidence during their portion of the hearing, you should not call any witnesses at the risk of providing non-hearsay evidence. You should cross examine the district's witnesses and then argue the hearsay only rule in your closing argument.

How do I create a record of the hearing for appeal?

Expulsion hearings are *audio* recorded, not video recorded. It is important that you stay aware of this fact throughout the hearing, as the county office of education panel reviewing the case on appeal will not be able to experience the non-verbal communication or side conversations occurring in the room at the hearing unless you point them out. You should also state any objections clearly for the record, as discussed in Chapters 10 and 11.

If there are procedural or substantive violations during the hearing, non-verbal exchanges, back and forths that may be unclear on the recording, or something that occurs or that is said during the hearing that you want to emphasize, state or recap them clearly for the record. Some examples of this include:

- I would like to state for the record that this hearing is not being interpreted for my Spanish speaking clients.
- I would like to state for the record that one of the expulsion hearing panelists is an employee of the school recommending Student for expulsion.
- I would like to state for the record that the district is attempting to add new evidence during this hearing that it did not provide to the family ahead of time when they requested the expulsion packet.
- I would like to state for the record that there was a whispered back and forth that occurred between the district and its witness guiding them towards a particular answer.
- I would like to state for the record that the district employee is rolling her eyes at the parent's testimony.

Chapter 13 Toolkit

Chapter 13 Glossary

Certificated Staff Member	A certificated staff member is a school employee who is required by law to have a credential or other professional license to perform their job. Certificated staff members include teachers, administrators, nurses, and counselors. Certificated staff members do not include classroom aides, security guards, or other paraprofessionals.

Supported Practice

Using the chart of common objections from Chapters 10 and 11 (copied below), state whether you would object to the following questions from the district and what objection you would make.

Type of Objection	Meaning of Objection
Relevance	You are asking a question about something that does not relate to the issues in the expulsion hearing.
Compound	You asked two questions at the same time.
Vague or ambiguous	Your question is unclear.
Leading	The district representative asked their witness a closed-ended question rather than an open-ended question.

1. **Was the student arrested in 2023?**

   Should you object to the question?
   - ☐ Yes
   - ☐ No

   If yes, what objection would you raise?
   - ☐ Relevance
   - ☐ Compound
   - ☐ Vague or ambiguous
   - ☐ Leading

   State a reason for this objection:

2. **Has the parent ever failed to respond to a conference request in the past?**

   Should you object to the question?
   - ☐ Yes
   - ☐ No

   If yes, what objection would you raise?
   - ☐ Relevance
   - ☐ Compound
   - ☐ Vague or ambiguous
   - ☐ Leading

   State a reason for this objection:

3. **What happened when you went to school?**

   Should you object to the question?
   - ☐ Yes
   - ☐ No

   If yes, what objection would you raise?
   - ☐ Relevance
   - ☐ Compound
   - ☐ Vague or ambiguous
   - ☐ Leading

   State a reason for this objection:

4. Where was the fight, who was there, and what time did it happen?

Should you object to the question?

- ☐ Yes
- ☐ No

If yes, what objection would you raise?

- ☐ Relevance
- ☐ Compound
- ☐ Vague or ambiguous
- ☐ Leading

State a reason for this objection:

5. Has the student ever gotten in trouble at school before?

Should you object to the question?

- ☐ Yes
- ☐ No

If yes, what objection would you raise?

- ☐ Relevance
- ☐ Compound
- ☐ Vague or ambiguous
- ☐ Leading

State a reason for this objection:

Independent Practice

Practice your opening and closing statement and reflect on them using the questions below.

1. How long were your statements? Are there any parts that you can remove or cut down to ensure that you keep the panel's attention?

2. Is there any part of your statement that you can say more concisely or state more clearly? Highlight the parts of the statement that were difficult for you to say out loud.

3. How does your tone sound when you read your statement out loud? Do you sound reasonable and rational or argumentative? Are you inflecting your voice and using pauses to emphasize important points?

4. Are you engaging your audience with non-verbal communication, like eye contact, hand gestures, pauses, and your facial expressions?

Answer Key

Supported Practice

Using the chart of common objections from Chapters 10 and 11 (copied below), state whether or not you would object to the following questions from the district and what objection you would make.

Type of Objection	Meaning of Objection
Relevance	You are asking a question about something that does not relate to the issues in the expulsion hearing.
Compound	You asked two questions at the same time.
Vague or ambiguous	Your question is unclear.

1. Was the student arrested in 2023?

Should you object to the question?

- ☒ Yes
- ☐ No

If yes, what objection would you raise?

- ☒ Relevance
- ☐ Compound
- ☐ Vague or ambiguous
- ☒ Leading

State a reason for this objection:
A student's arrest record has nothing to do with school discipline and can only prejudice the panel against your student. The question is also leading because it is closed-ended and suggests an answer.

2. Has the parent ever failed to respond to a conference request in the past?

Should you object to the question?

- ☐ Yes
- ☒ No

If yes, what objection would you raise?

- ☐ Relevance
- ☐ Compound
- ☐ Vague or ambiguous
- ☐ Leading

State a reason for this objection:
No objection. This question is relevant and clear, as the answer goes to secondary findings. Even if a question may lead to information that is bad for your case, objecting to a valid question will only annoy the panel. You could object based on the question being leading, but this is a strategic call, since the district representative could just rephrase.

3. What happened when you went to school?

Should you object to the question?

- [x] Yes
- [ ] No

If yes, what objection would you raise?

- [ ] Relevance
- [ ] Compound
- [x] Vague or ambiguous
- [ ] Leading

State a reason for this objection:
It is unclear what this question is asking, so your client should not answer until that is clarified.

4. Where was the fight, who was there, and what time did it happen?

Should you object to the question?

- [x] Yes
- [ ] No

If yes, what objection would you raise?

- [ ] Relevance
- [x] Compound
- [ ] Vague or ambiguous
- [ ] Leading

State a reason for this objection:
This question asks three separate questions in one.

5. Has the student ever gotten in trouble at school before?

Should you object to the question?

- [ ] Yes
- [x] No

If yes, what objection would you raise?

- [ ] Relevance
- [ ] Compound
- [ ] Vague or ambiguous
- [ ] Leading

State a reason for this objection:
No objection. This is a relevant and clearly stated question that would provide information on secondary findings.

Independent Practice

Answers will vary.

Chapter 14
Possible Outcomes of Hearing

Chapter 14 Roadmap

In this chapter, you will learn about the possible outcomes of an expulsion hearing. This chapter is unique from the other chapters in that it does not include supported or independent practice activities; rather, it provides you with information you need to discuss a possible expulsion appeal with your client in Chapter 15.

Study Guide

- What are the possible outcomes after an expulsion hearing?
- When will you learn the panel's decision and how will you be notified?
- What happens if your student is not expelled?
- What happens if your student is expelled?
  - What types of placements can your expelled student be sent to?
  - What is a **rehabilitation plan**?
  - What is a **readmission meeting**?
- What happens if your student is placed on a **suspended expulsion**?
  - What happens if the student violates a school rule while on a suspended expulsion?
  - If the student is offered a suspended expulsion before or after the expulsion hearing, what are the pros and cons of accepting it?
- What happens if your student is offered a **stipulated expulsion**?
  - If the student is offered a stipulated expulsion before or after the expulsion hearing, what are the pros and cons of accepting it?

Toolkit Materials

- Chapter 14 Glossary

Study Guide

What are the possible outcomes after an expulsion hearing?

As stated in Chapter 2, there are three possible outcomes in an expulsion hearing:

1. No expulsion: the student is immediately allowed to return to their original school or is allowed to transfer to another comprehensive campus in the school district. The student does not have an expulsion on their record.
2. Expulsion: the student is referred to a county school or alternative school in the district. The student has an expulsion on their record and must complete a rehabilitation plan.
3. Suspended Expulsion: the student can keep attending school in the school district (sometimes at a different school or program), but they must follow a rehabilitation plan for a certain amount of time (usually one or two semesters). If they break a school rule or do not complete their rehabilitation plan, then they will be expelled. If they follow school rules and complete their rehabilitation plan, then their suspended expulsion will be lifted, and they won't have an expulsion on their record.

Students also often resolve their expulsion cases before the hearing by reaching a settlement agreement with the school district. A settlement can include an agreement that the student will not be expelled or that the expulsion will be suspended. The school district may also try to convince the student and family to sign a "stipulated expulsion," which is an agreement stating that the student is expelled without an expulsion hearing.

When will you learn the panel's decision and how will you be notified?

Under Section 48918(e) of the Education Code, the hearing panel must decide within three schooldays of the expulsion hearing whether to recommend that the student be expelled. If the panel decides not to recommend expulsion, the decision is final, and the student returns to school immediately.

If the panel recommends expulsion, the decision is not final until it is approved by the school board. The panel must prepare findings of fact for the school board to review before reaching a decision about the expulsion. Under Section 48918(a)(2) of the Education Code, the school board must decide whether to approve the student's expulsion within 10 schooldays of the hearing or 40 schooldays of the student's original suspension.

What happens if your student is not expelled?

If the panel votes not to expel your student, great news! This is an opportunity to celebrate that you made your case clear to the panel, and they agreed that the district did not meet its burden of proof or that expulsion was otherwise inappropriate. The good news is that the

school district cannot appeal the decision; the student must be immediately returned to school without conditions.[62]

However, there may be some additional advocacy to do. Some outstanding issues you may want to help the family resolve include:

- Working with the district to ensure the student's smooth re-enrollment back at their comprehensive school;
- Advocating for a voluntary transfer to another school in the district if the student does not feel comfortable or safe returning to their former school, given any strained or broken relationships with staff or problems with other students;
- Requesting special education evaluations or additional disability-related supports; and
- Ensuring that the student has an opportunity to make up missed work or unfinished credits.

There is a limited (and rare) circumstance in which a student can be involuntarily transferred to another comprehensive school or even a continuation school despite not being recommended for expulsion. This happens when the panel determines (and the school board affirms) that a student committed a zero-tolerance violation, but expulsion is inappropriate under the circumstances.[63] How to advocate for a student who is being involuntarily transferred can be found in NLSLA's Education Advocacy Manual, available here.[64]

What happens if your student is expelled?

If the panel votes to expel your student, the final decision remains with the school board. Information on board approval is found in Chapter 15.

If the panel recommends expulsion and the school board agrees, this means that the board can order that the student not be allowed to attend any of the comprehensive schools in the district for the term of the expulsion.[65] Expelled students can be placed in county-run schools or, depending on the violation, a district-run alternative school. Remember, you can appeal this decision in many cases, as will be discussed in Chapter 15.

What types of placements can your expelled student be sent to?

If your student is expelled, they may be transferred to a county school, community day school, or independent study. These placements do not provide the same educational or extra-curricular opportunities as comprehensive schools.

- An **alternative school** is a non-comprehensive school setting such as a county community school, community day schools, or continuation school.

[62] Cal. Educ. Code Section 48918(e).
[63] Cal. Educ. Code Sections 48918(e), 48432.5.
[64] https://nlsla.org/wp-content/uploads/2025/09/Education-Advocacy-Manual_Updated-February-2025_August-2025.pdf.
[65] Cal. Educ. Code Section 48915.2.

- A **county community school** is an alternative school run by the county office of education.
- A **community day school** is an alternative school run by the school district.
- **Independent study** is a district-run, self-directed instructional option for students to receive education outside the traditional classroom.

What is a rehabilitation plan?

In general, expelled students are given a rehabilitation plan (aka a "rehab" plan). Rehab plans typically include a list of tasks and requirements the student must meet before they can be "readmitted" back to a comprehensive school. You can sometimes negotiate the terms of a rehab plan, but even if you cannot, it is important to make sure the student and the district are on the same page about what the rehab plan expects.

Some common terms in a rehab plan[66] include:

- Community service—this may be a requirement to do community service at the school or with a program in the community.
- Counseling—there may be a requirement for the student to complete counseling hours, either through the school placement or through an agreed-upon outside provider.
- Grades/attendance—there may be requirements to maintain a certain grade point average or avoid exceeding a certain number of absences.
- "Stay away" orders—there may be requirements for the student not to go to any district campuses or have contact with specific students or staff.
- Rule following—there may be requirements to not violate certain school rules.

What is a readmission meeting?

When a student is expelled, the school board must set a date where the board will review whether the student can be readmitted to the district. Expulsions for zero-tolerance violations can be for up to a full year, while expulsions for lesser violations can be shorter, sometimes only a semester. A student's readmission to a comprehensive school is not automatic and is subject to board review, which is where your advocacy comes in.

What happens if your student is placed on a suspended expulsion?

Another possible outcome is the student being placed on a suspended expulsion. A suspended expulsion means that the student has been ordered to be expelled, but the enforcement of the expulsion is "suspended" for a certain period, during which the student is on "probationary status" and must complete a "rehabilitation program."

[66] See "Advocate Guide to Expulsion Defense" published by East Bay Community Law Center, *available at* https://ebclc.org/wp-content/uploads/2024/10/2024.10.07-Non-Attorney-Advocate-Guide-to-Expulsion-Defense-1.pdf.

A suspended expulsion cannot last longer than one calendar year. During the suspended expulsion, the school district can assign the student to a school, class, or program that is "deemed appropriate for [their] rehabilitation." The school board can also order the student to complete a rehabilitation plan, which can include requirements like completing community service and counseling, and maintaining adequate grades and attendance.

If the student completes their rehabilitation program by the end of the suspended expulsion term, the school board must reinstate them at a district school. The school board can also choose to order expungement of all records of the expulsion.

What happens if the student violates a school rule while on a suspended expulsion?

If the student violates any school rules during the term of the suspended expulsion, then the school board can revoke the suspended expulsion. The student would then be expelled under the original expulsion order. The student is not entitled to a hearing before their suspended expulsion is revoked. However, disabled students are entitled to a Manifestation Determination Review before their suspended expulsion is revoked.

If the student is offered a suspended expulsion before or after the expulsion hearing, what are the pros and cons of accepting it?

Sometimes, before or after the expulsion hearing, school districts offer to stop the expulsion process if the student agrees to a suspended expulsion. Remember that the student, not you, makes the final decision as to whether to accept a suspended expulsion. You can support the student in making this decision by explaining the pros and cons of accepting the offer.

There are some benefits of accepting a suspended expulsion through a settlement agreement:

- The student may have more say over what school they attend during the suspended expulsion;
- The student may be allowed to attend a comprehensive school during the suspended expulsion;
- The student may have more say over what terms are included in the rehabilitation plan; and
- If the student successfully completes the rehabilitation plan, the record of the expulsion may be expunged.

However, there are also significant drawbacks to accepting a suspended expulsion through a settlement agreement:

- In many cases, the school district will only agree to place the student at the same school they would have attended if they were expelled (i.e. a Community Day School); and
- If the student breaks *any school rule* during the suspended expulsion—which could be up to one year—they can be expelled without a hearing.

It is very important to make sure the student understands the full risks of the suspended expulsion before they make their decision. Although suspended expulsions can present a good opportunity to return to school and eventually get the expulsion off the student's record, rehabilitation plans are very difficult to complete successfully, and the student risks being expelled for new behaviors without receiving a hearing.

What happens if your student is offered a stipulated expulsion?

While similar in name, a stipulated expulsion is very different from a suspended expulsion. A stipulated expulsion means that the student is signing an agreement that they will be expelled. Unlike a suspended expulsion, the student is not on probationary status and does not have the option later to expunge the record. They are considered expelled, just as they would be if they had been ordered expelled after an expulsion hearing.

If the student is offered a stipulated expulsion before or after the expulsion hearing, what are the pros and cons of accepting it?

If the school district offers a stipulated expulsion, remember again that the student, not you, makes the final decision as to whether to accept. You can support the student in making this decision by explaining the pros and cons of accepting the offer. It is important to emphasize that stipulated expulsions have few benefits and many risks.

One potential benefit of the stipulated expulsion is that the student may have more control over what requirements are included in their rehabilitation plan. Some students might want to sign a stipulated expulsion because it means they do not have to go through the expulsion hearing, which can be a traumatic experience. However, it is important that you explain to the student that they are not required to attend their expulsion hearing, and you can attend instead on their behalf.

The drawbacks to stipulated expulsions are severe. Signing a stipulated expulsion means that the student is giving up their right to due process, including the right to an expulsion hearing and an appeal of that hearing. This decision is difficult to reverse later. Signing the stipulated expulsion also means that the student will have an expulsion on their record and will have to attend a school for expelled students until the expulsion term is over.

Chapter 14 Toolkit

Chapter 14 Glossary

Alternative School	A non-comprehensive school setting such as a county community school, community day schools, and continuation schools. The expulsion placement may be explicitly defined or described as an alternative school.
Community Day School	An alternative school run by the school district.
County Community School	An alternative school run by the county office of education.
Independent Study	A self-directed instructional option for students to receive education outside the traditional classroom.
Readmission Meeting	A meeting on a date set by the school board when a student is expelled to review whether the student can be readmitted to the district.
Rehabilitation Plan	A plan given at the outset of an expulsion that includes a list of tasks and requirements the student must meet before they can be "readmitted" back to a comprehensive school
Stipulated Expulsion	A signed agreement where the student consents to being expelled without a hearing.
Suspended Expulsion	An agreement where the student has been ordered to be expelled, but the enforcement of the expulsion is "suspended" for a certain period, during which the student is on "probationary status" and must complete a "rehabilitation program."

Chapter 15
Board Approval and Appeals

Chapter 15 Roadmap

In this chapter, you will learn about the board approval process, the final step in the district-level expulsion process. You will also learn about the process, standard, and timelines for appealing an expulsion to the county office of education.

Study Guide

- What is a school board's role in expulsion proceedings?
  - How can you research school board members?
  - How do you determine what the school board's policy is for speaking during closed sessions?
  - What "last chance" arguments can you make to a school board?
- What happens during an expulsion appeal?
  - Can every expulsion case be appealed?
  - What is the timeline for appeal?
  - What information does the county office of education consider on appeal?
  - What is an appeal brief?
  - What do I do if the county board tries to get me to settle my expulsion appeal with the district?

Toolkit Materials

- Chapter 15 Glossary
- Appeal Compliance Tracker

Supported Practice

- *Use hypos to determine if an expulsion can be appealed.*

Independent Practice

- *Outline a "last chance" argument for a school board meeting.*

Study Guide

What is a school board's role in expulsion proceedings?

As explained in Chapter 14, the school board must approve the panel's expulsion recommendation before the student is officially expelled. In reaching their decision, the school board must either: (1) review the findings of fact prepared by the panel after the expulsion hearing; or (2) conduct a separate hearing of their own. Most school boards choose to review the panel's findings of fact rather than conducting their own additional hearing.

In addition to reviewing the panel's findings of fact, school boards must allow families and their representatives an opportunity to speak with the board directly and explain why the student should not be expelled. This meeting happens in a **closed session** with the school board, and it presents a last chance opportunity to advocate that the student not be expelled.

How can you research school board members?

At school board meetings, arguments based on shared values are often more successful than arguments based on the law. Thus, if you are planning to advocate for your student in closed session with the school board, it is important to research the school board members first to get a sense of their values and the issues that matter to them, so you can frame your arguments in a way that is persuasive to them. Some common values school board members hold include safety, equity, personal accountability, child development, and educational opportunity.

School board members are elected representatives, so most will have public profiles online and on social media that you should review before your meeting. In addition, past school board meeting notes must be publicly posted online, so you can review these notes and see how school board members have voted on various issues. You should review all these public sources to familiarize yourself with the school board before you formulate your arguments.

How do you determine what the school board's policy is for speaking during closed sessions?

To speak at closed session, you should reach out to the expulsion representative who has been the point of contact during the case and request to be added to the closed session agenda at the next school board meeting. You can find the regularly scheduled board meeting calendar and agendas on the school district's website.

What "last chance" arguments can you make to a school board?

During the closed session, you will argue why the student should not be expelled or why the school board should order a suspended expulsion instead of an expulsion. You can use both legal arguments and arguments based on values, although the latter is often more successful. Generally, you cannot introduce new evidence or testimony during the closed session.

School board members are often concerned with practical issues, such as campus safety and educational opportunities for your student. Thus, successful arguments often explain to the school board why your student does not pose a safety issue and emphasize to the school board the deep harms of removing your student to an alternative school setting. If your student experienced discrimination during the discipline process, these issues may also be persuasive.

School board members are also often concerned about the precedent their decisions will set. You should also explain why expelling your student will set a harmful precedent (i.e. sending the message to school administrators that procedural violations are acceptable) and, on the other hand, why not expelling your student will not set a harmful precedent.

Remember, any arguments you make during the closed session will be part of the record for appeal, so you should not concede any facts or arguments that you did not concede at the expulsion hearing. For example, if your student denied the accusations during the expulsion hearing, you should not admit them during the closed session.

Lastly, it is often most powerful for the school board to hear from the student and their parents directly (as long as the student was not arrested for the incident). You should help prepare them to speak about their experiences with the school district and argue against expulsion.

What happens during an expulsion appeal?

The law permits students (not school districts) to appeal an expulsion decision to the county office of education. The county office may have the full county board hear the appeal or use a hearing officer or impartial three-person panel from the county office or the Office of Administrative Hearings.

The county office of education will consider the administrative record from the expulsion hearing to determine if the district's expulsion decision followed the law. In presiding over appeals, county offices of education will hold an appeal hearing with the student and the district to determine if the expulsion decision should stand, be overturned, or if a new hearing at the district level should be ordered.

Can every expulsion case be appealed?

Not every expulsion can be appealed. The county office of education will limit their review of appeals to the following three circumstances:

1. **The school board had a lack of jurisdiction to expel the student.** This means that the expulsion does not have legal justification for any number of reasons, including:
    - *The hearing was not conducted within the required timeframes*—the hearing took place after the 30 schoolday timeframe without a legal postponement from the student. Remember that a district cannot decide on its own to postpone a hearing. Only a student can request a postponement;

- *The expulsion order was not based on a finding that the student committed an expellable violation*—this could mean that the finding was not supported by the evidence or that the violation was not listed in the Education Code; or
- *The student's conduct was not related to school activities or attendance*—this means that the violation took place outside of school hours, off campus, and did not affect school activities or school attendance.

2. **There was a lack of a fair hearing.** This means that you can allege that the expulsion hearing panel was biased against your student or that the hearing was otherwise unfair.
3. **The district abused its discretion in how it carried out the expulsion hearing.** You can allege abuse of discretion when the district has failed to meet Education Code procedural requirements throughout the expulsion process, failed to make the required findings to meet their burden of proof, or failed to support their findings with evidence. It is not enough to just provide examples of abuse of discretion though. You have to argue that any abuses of discretion impacted the outcome of the hearing and prejudiced the student in the expulsion process.
4. **There were evidentiary issues.** This means that there is new relevant and important evidence that came to light after the hearing that could not have been reasonably produced at the hearing. In these cases, county boards typically do not overturn the expulsion. Instead, they order the district to do redo the hearing with the new evidence.

What is the timeline for appeal?

According to Section 48919 of the Education Code, you must file your appeal with the county office of education within **30 calendar days** of receiving the school board's expulsion decision. Along with your appeal, you should also submit a written request to the school district for a copy of the hearing transcript. The district must provide you with the hearing transcript within **10 schooldays** of your written request.

After you file your appeal, the county office of education must hold a hearing on your appeal within **20 schooldays**. The hearing can be in front of the full board, a hearing officer, or a three-person panel. If the board has used a panel or hearing officer instead of the full board, the panel or officer must issue their decision to the county board within **3 schooldays**. The county board has **10 schooldays** from the hearing to make a final decision.

What information does the county office of education consider on appeal?

In general, the county office of education will only consider the record and evidence from the expulsion hearing. It will not consider new evidence or arguments. Rather, it will limit its review to whether the school district followed the law, if the facts align with the legal determination

made, and if district bias impacted the outcome. This is why the record you create throughout the hearing and on the transcript are so critical.

What is an appeal brief?

An appeal brief is a letter or essay you write for the county board that explains why you are appealing an expulsion decision. It should do the following:

1. Give the legal basis for your appeal (i.e., lack of jurisdiction, abuse of discretion);
2. Provide evidence from the record that proves your basis for appeal. This can be excerpts from the transcript, evidence from the expulsion packet, or documents you submitted to the hearing panel. Be as detailed as possible;
3. Explain the impact of the district's legal violations on the outcome of the hearing or the student's access to due process; and
4. Suggest solutions for the board to consider ordering. This would typically be ordering the expulsion to be overturned, prejudicial student records to be expunged, and the student to be returned immediately to a comprehensive campus.

You are not required to write an appeal brief. Most county boards allow you to submit a form noticing your appeal to the county board and providing the legal basis for the appeal. However, many county boards allow you to submit a brief, which gives you a better opportunity to explain your arguments to the board clearly and without the time pressure of the hearing. Our experience has also shown that writing a brief means the county board will use the brief as a basis to ask the district specific questions at the hearing that can yield answers in your favor.

What do I do if the county board tries to get me to settle my expulsion appeal with the district?

Some county boards will attempt to help students and districts reach a settlement before or after a hearing. If a county board reaches out to you to gauge your interest in settling your appeal, know that you do not have to settle if the terms being proposed are not what your student wants. However, we have seen county boards put pressure on districts to reverse expulsion decisions without a hearing in exchange for things your student might otherwise want, like a safety plan or a voluntary transfer to another comprehensive campus.

Chapter 15 Toolkit

Chapter 15 Glossary

Abuse of Discretion	An appeal basis alleging that a district's expulsion decision made a legal error, was not supported by factual findings, or was not supported by the evidence.
Appeal Brief	An appeal brief is a letter or essay you write for the county board that explains why you are appealing an expulsion decision.
Closed Session	A closed session is a formal school board meeting, but it is held in private, meaning that members of the public are not allowed to attend.
Evidentiary Issues	Appeal basis alleging that new relevant and important evidence came to light after the hearing that could not have been reasonably produced at the hearing.
Expulsion Appeal	A formal process by which a student challenges their school board's expulsion decision by requesting a review by the county board of education.
Lack of Jurisdiction	Appeal basis alleging that the expulsion does not have legal justification because the school district did not conduct the hearing within the required timeframes, the expulsion was not based on an expellable violation defined in the education code, or the student's conduct was not related to school activities or attendance.
Lack of a Fair Hearing	Appeal basis alleging that an expulsion hearing panel was biased against your student or that the hearing was otherwise unfair.

Appeal Compliance Tracker

Review the grounds for expulsion appeals below. Any that you check off can be a basis for an appeal to the county board.

Grounds for Expulsion Appeal

☐ **I can appeal for lack of jurisdiction if:**

- The hearing was conducted after the 30 schoolday timeframe without a written postponement request from the student.
- The expulsion order was not based on an expellable violation.
- The expulsion order was not supported by evidence.
- The student's conduct was not related to school activities or attendance.

☐ **I can appeal for a lack of a fair hearing if:**

- The expulsion hearing panel was biased.
- The expulsion hearing was otherwise unfair.

☐ **I can appeal for an abuse of discretion if:**

- At least one of the following is true:
  - The district failed to meet the Education Code's procedural due process requirements throughout the expulsion process.
  - The district failed to make the required findings to meet their burden of proof.
  - The district failed to support their findings with evidence.

AND

- The abuse of discretion impacted the outcome of the hearing and prejudiced the student in the expulsion process.

☐ **I can appeal due to evidentiary issues if:**

- New relevant and important evidence came to light after the hearing that could not have been reasonably produced at the hearing.

Supported Practice

Review the hypotheticals below and list on what grounds the student can appeal the expulsion.

1. Mariana was just expelled for a social media post she made over summer break. While no students were absent because of it and the post itself was not necessarily a "threat," the post did hurt a few students' feelings and made them think that Mariana might want to fight them. She was expelled under Section 48900(a)(1), but the district did not discuss secondary findings at the hearing even though this was only Mariana's second discipline issue.

Can you appeal?
- ☐ Yes
- ☐ No

If yes, on what grounds?
- ☐ Lack of jurisdiction
- ☐ Lack of fair hearing
- ☐ Abuse of discretion
- ☐ Evidence issues

Explain:

2. Lionel was just suspended for selling "weed gummies" on campus. However, no one tested the gummies to ensure they contained weed, and no witnesses ate the gummies. Lionel insists they were just candy with a lot of sugar and some caffeine. One of the panel members at the hearing was an assistant principal at Lionel's school, but she did not speak to students about the incident. Also, there is a social media post Lionel found after the hearing that shoes Lenny opening the bag of gummies, and it clearly shows that the gummies are candy.

Can you appeal?
- ☐ Yes
- ☐ No

If yes, on what grounds?
- ☐ Lack of jurisdiction
- ☐ Lack of fair hearing
- ☐ Abuse of discretion
- ☐ Evidence issues

Explain:

3. Amy was expelled for possession of a gun on school grounds. A panel of administrators from other schools held the hearing, all evidence was considered, and procedural timelines were met. Amy and her family disagree with the outcome.

Can you appeal?
- ☐ Yes
- ☐ No

If yes, on what grounds?
- ☐ Lack of jurisdiction
- ☐ Lack of fair hearing
- ☐ Abuse of discretion
- ☐ Evidence issues

Explain:

Independent Practice

For this exercise, assume that Lenny Pugg lost his expulsion hearing. Write a last chance argument for closed session with the school board. If you would like practice researching school board members, research the school board for your local school district and imagine you are presenting your last chance argument for Lenny to them.

In addition to writing your last chance argument, write three guiding questions for Lenny's dads to help them prepare their own statement for the school board.

Answer Key

Supported Practice

1. Prompt 1:

Can you appeal?
- [x] Yes
- [ ] No

If yes, on what grounds?
- [x] Lack of jurisdiction
- [ ] Lack of fair hearing
- [x] Abuse of discretion
- [ ] Evidence issues

Explain:

Lack of jurisdiction: The post Mariana made did not happen during school hours nor was it related to a school activity. The post did not impact school attendance or activities.
Abuse of discretion: The school did not consider secondary findings even though Mariana's Education Code violation is discretionary.

2. Prompt 2

Can you appeal?
- [x] Yes
- [ ] No

If yes, on what grounds?
- [ ] Lack of jurisdiction
- [x] Lack of fair hearing
- [x] Abuse of discretion
- [x] Evidence issues

Explain:

Lack of fair hearing: The panel includes someone from Lionel's school, so it is not impartial.
Abuse of discretion: The panel did not prove an element for possession of marijuana—that the item in question is actually marijuana. The district's case is also hearsay only.
Evidence issues: There is a piece of evidence that came light after the hearing that proves that Lionel did not sell weed gummies. Neither party had access to the evidence beforehand.

3. Prompt 3

Can you appeal?
- [ ] Yes
- [x] No

If yes, on what grounds?
- [ ] Lack of jurisdiction
- [ ] Lack of fair hearing
- [ ] Abuse of discretion
- [ ] Evidence issues

Explain:

- You cannot appeal for lack of jurisdiction because the conduct occurred on school grounds.
- You cannot appeal for lack of fair hearing because an impartial panel was assembled for the hearing and no other fairness issues arose.
- You cannot appeal for abuse of discretion because the district met procedural due process requirements, met their burden of proof, and supported their findings with evidence.
- You cannot appeal due to evidentiary issues because no new evidence has come to light that could not have been reasonably produced before the expulsion hearing.

Independent Practice

Answers will vary based on research of school board members. Here is a sample last chance argument:

Thank you for the opportunity to address the school board this evening on behalf of Lenny Pugg. Lenny is a third grader at Neighborhood Elementary School who is being raised in a loving home with supportive dads. Lenny loves watching Paw Patrol, playing outside with his toys, and running around with his older sister. We are urging you tonight not to expel Lenny for two main reasons. First, there is no safety concern with allowing Lenny to return to his school, and second, expelling Lenny will cause him significant harm.

Allowing Lenny to return to school does not pose any safety concerns because he never tried to hurt anyone with the knife. Instead, bringing the knife was a desperate attempt to feel safe after being bullied for months. Lenny's bullies imitated him in class to humiliate him, threw objects at him, called him names, made animal sounds at him, and—just one day before this incident—threatened to hurt him. The bullying made Lenny feel sad and caused his grades and behavior to decline. Unfortunately, even though the school knew about the bullying, they did not intervene to help Lenny. The school's lack of support combined with Lenny's disability-related impulsivity caused him to feel like he had no choice but to bring a knife to keep himself safe, though he never planned to use it. Lenny never opened the knife or tried to hurt anyone with it. He simply hoped the bullies would not try to hurt him knowing that he had it.

An incident like this will not happen again because Lenny's dads and the district can work together to address the bullying and help Lenny get the IEP support he needs. Lenny is still a young child who does not pose any true safety risk.

Second, a decision to expel Lenny tonight will have long-term negative consequences. If Lenny is expelled, he will be sent to the district's alternative school which is farther from his home, has a shorter school day, and does not have as many supports to help Lenny with his disability. Expelling Lenny will also send the message that he is not welcome in this district and that when he makes a mistake he will be shunned instead of supported.

The school board can ensure that this incident leads to positive change for Lenny, rather than something that derails his future. Lenny deserves to get the support he has long needed. He should not be punished for adults' failures to protect him. By choosing to address the bullying and ensure Lenny gets the IEP supports he needs, the board is investing in Lenny's future and ensuring an incident like this will never recur. We urge you to vote not to expel Lenny.

Sample guiding questions for Lenny's dads' statement for the school board:

1. What has this experience been like for Lenny and your family?
2. What support are you providing to Lenny at home to address this incident?
3. How would being expelled impact Lenny?

Congratulations!

You have completed Expulsion Defense and You.

The school board voted not to expel Lenny, and he is headed back to school on Monday!

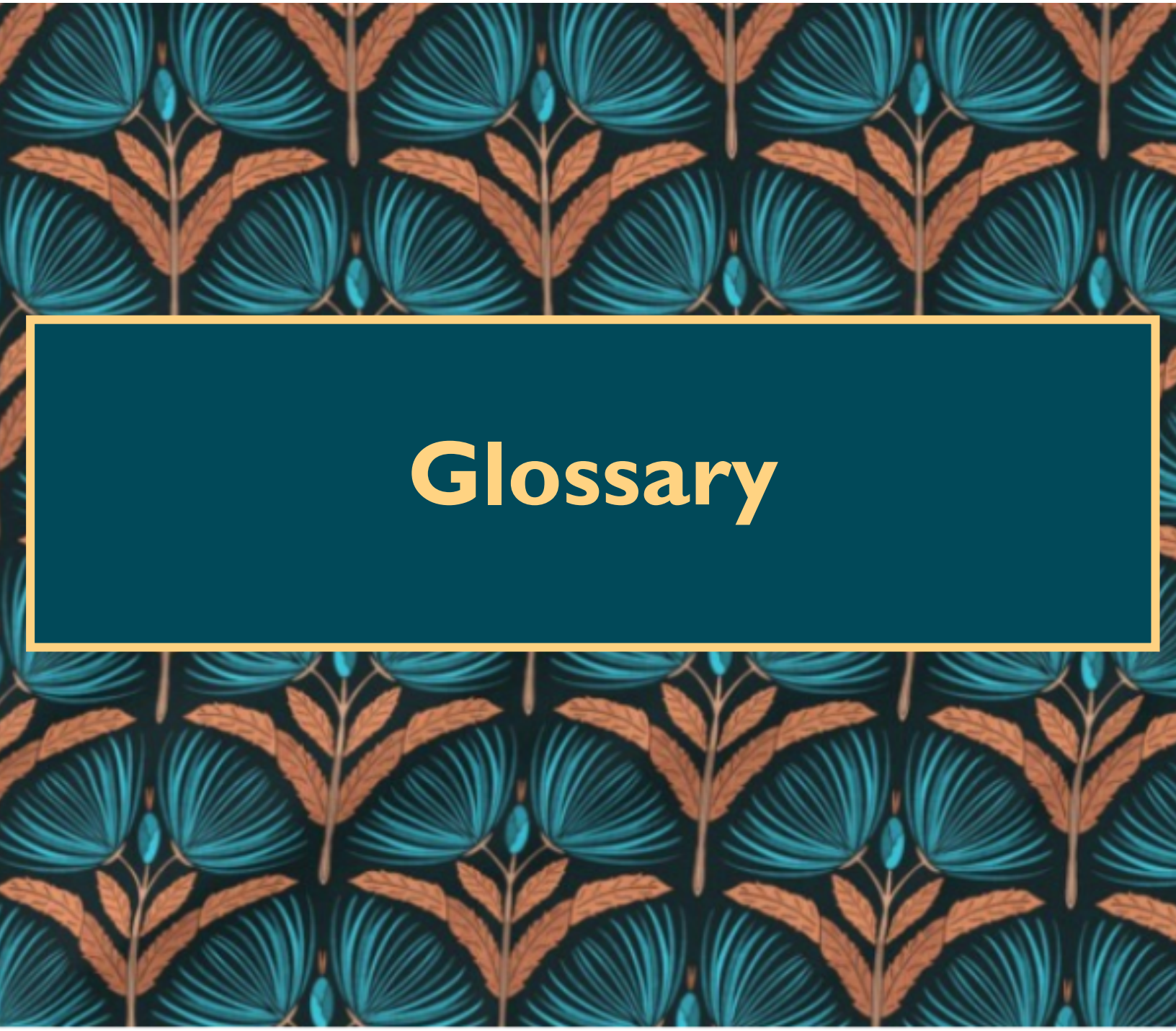
Appendix

Appendix Table of Contents

GLOSSARY……..……280

LENNY'S FACT PATTERN……289

LENNY'S EXPULSION PACKET……....300


Glossary

Abuse of Discretion	An appeal basis alleging that a district's expulsion decision made a legal error, was not supported by factual findings, or was not supported by the evidence.
Alternative school	A non-comprehensive school setting such as a county community school, community day schools, and continuation schools. The expulsion placement may be explicitly defined or described as an alternative school.
Appeal Brief	An appeal brief is a letter or essay you write for the county board that explains why you are appealing an expulsion decision.
Attorney	Section 48918 of the Education Code defines attorney as legal counsel who is admitted to the practice of law in California and is an active member of the State Bar of California. The State Bar is the agency that licenses and regulates attorneys for the state of California.
Authenticate	Authenticating evidence means asking the witness to provide information that shows the document or object is what you are saying it is, meaning it is real, true, and genuine.
Basis of Knowledge	Applies the IDEA's disciplinary protections to students with suspected disabilities, even if there has not been a formal determination that a student has a disability or is eligible for special education, where it can be shown that the school had knowledge or was on notice of the student's possible disability or need for services.
Behavior Intervention Program ("BIP")	A plan or program to help students struggling with challenging behaviors at school without resorting to discipline. These programs can help by providing services, instruction, conflict resolution, or safety planning. Popular options include Restorative Justice, Positive Behavioral Interventions and Supports ("PBIS"), and Social-Emotional Learning ("SEL").
Burden of Proof	In expulsion hearings, school districts have the burden of proof. This means that it is the district's job to prove all the things that law requires to prove in order to expel the student. In other words, it is not your job to prove that the student **did not** do what the district is saying; rather, you just have to show that the district cannot meet their obligation to prove their case, which is easier to do.
Calendar Days	Includes all days of the year. When counting calendar days, you would include every day on the calendar, including weekends and holidays.
California Department of Education	The state agency that oversees all public schools in California, also known as "CDE."
California Education Code	The collected code of laws and regulations that govern all aspects of K-12 and post-secondary education in California public schools.
California School Dashboard	A website maintained by the California Department of Education that is designed to provide the community with information on school and district progress by compiling and analyzing performance data.
Certificated Staff Member	A certificated staff member is a school employee who is required by law to have a credential or other professional license to perform their

	job. Certificated staff members include teachers, administrators, nurses, and counselors. Certificated staff members do not include classroom aides, security guards, or other paraprofessionals.
Closed-ended Question	A closed-ended question is a narrow question requiring the witness to respond with yes or no.
Closed Session	A closed session is a formal school board meeting, but it is held in private, meaning that members of the public are not allowed to attend.
Closing Argument	The last section of the expulsion hearing where you make a verbal argument about why the school district has not proven that it can expel the student.
Closing Brief	A printed version of your closing argument submitted to the hearing panel with your evidence packet.
Community Day School	An alternative school run by the school district.
Compound Question	Compound questions are when you ask the witness two or more questions at one time.
Comprehensive Campus	A traditional school setting providing public education to students that live within its residential boundaries.
Confidential	Information that is kept secret and not shared with others, especially outside of a specific context or trusted relationship.
Confirm	The first part of the three-C's of impeachment, where you ask the witness to verify that they said the statement or testimony you are challenging.
Confront	The final part of the three-C's of impeachment, where you point out the witness' prior inconsistent statement.
Contact Log	A document that tracks emails, phone calls, text messages, and other forms of communication where staff talk amongst themselves about your child or talk to your child's parent/guardian about your child.
Continuing "Danger/"Disruption" Standard	Standard that a school district must meet to extend a student's suspension until their expulsion hearing. To lawfully extend a suspension, the district must prove that "the presence of the pupil at the school or in an alternative school placement would cause a **danger to persons or property** or a **threat of disrupting the instructional process**."
County Office of Education	A public education agency that supports and oversees school districts within a particular county at a level below the California Department of Education.
County Community School	An alternative school run by the county office of education.
Credit	The second part of the three-C's of impeachment, where you ask the witness to build up the accuracy of their previous statement. You want the witness to help you show that their previous statement is more credible than their current testimony.

Cross Exam Questions	Questions you ask of the school's witnesses to challenge the witness's testimony, credibility, or show the presence of bias.
Cumulative File	The cumulative file is a permanent record that includes *all* documents related to the student's education, including information about academics, health, enrollment, attendance, and behavior.
Demographic Data	Data that reports specific characteristics within a population, such as race, national origin, ethnicity, gender, socioeconomic status, and disability.
Direct Exam Questions	Questions you ask your own witnesses to help show why the school district cannot expel your client, including what the witnesses saw happen during the incident and why expulsion is not appropriate for your student.
Discipline Log	A document that tracks each behavioral incident where the school suspended your child, expelled them, or implemented other means of correction instead of discipline.
Disparities	An unfair difference in the level or treatment of an individual or group, especially on the basis of their identity or circumstances.
Disproportionate	When a group experiences something that happens at too large or too small a rate than what is proportionate to their population size. For example, if Group A is 50% of the general population, they should get about 50% of the suspensions. If Group A gets 70% of the suspensions, their suspensions are disproportionate.
Diagnostic and Statistical Manual of Mental Illnesses ("DSM")	The DSM-V is the latest edition of the American Psychiatric Association's professional reference book on mental health conditions.
Elements	Refers to the essential components or requirements that school districts must prove to establish a violation of the Education Code.
Evidence Chart	A way to organize the school district's evidence and your evidence by pulling out important quotes and identifying which witness you will question about which documents.
Evidentiary Issues	Appeal basis alleging that new relevant and important evidence came to light after the hearing that could not have been reasonably produced at the hearing.
Expulsion	Form of discipline where a student is not allowed to return back to a comprehensive campus in their school district for up to one calendar year.
Expulsion Appeal	A formal process by which a student challenges their school board's expulsion decision by requesting a review by the County Board of Education.
Expulsion Packet	The expulsion packet includes all the evidence the school district will present during the expulsion hearing, such as discipline notices, witness statements, and the child's discipline log.

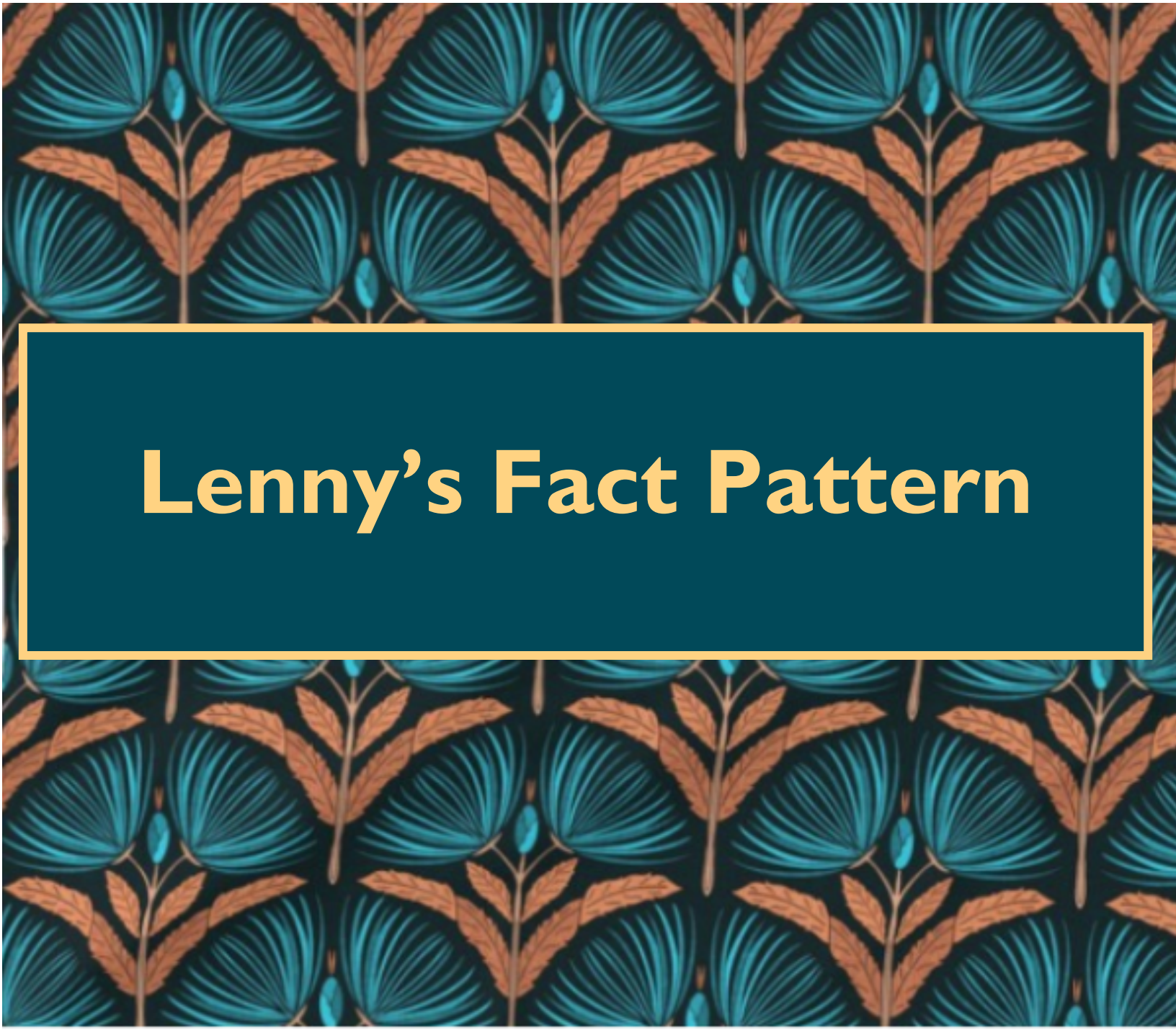
Expulsion Recommendation	A formal proposal from a school administrator to a school district recommending that the district initiate expulsion proceedings based on their belief that the student has engaged in serious misconduct.
Extension of Suspension	Occurs when a school district prolongs a student's initial suspension for a disciplinary incident because they are being recommended for expulsion. Instead of the suspension lasting for no longer than five schooldays, the Education Code allows for the suspension to last until the expulsion hearing.
Failure to Implement	Refers to a district violating the IDEA by not delivering a required part of the IEP, including not providing agreed-upon services and accommodations.
Federal Laws	Laws that are created by the United States government. Every person in every state must follow federal laws. If state laws conflict with federal laws, they are not enforceable.
Guardian	An adult appointed by a court to care for a child by making decisions about their education, medical care, and personal care.
Hearsay	Statements from people who are not present to testify at the hearing, like rumors, written reports, or witness statements without any direct, in-person testimony from the person who has personal knowledge.
Hearsay Only Rule	A rule that prohibits school districts from expelling students if the only evidence they present at the expulsion hearing is hearsay.
Hostile Educational Environment	Occurs when a student or students are subjected to harassment or discrimination on the basis of their identities, interfering with their ability to learn and participate in educational programs or activities.
IEP Goals	Statements in a student's IEP that outline what disabled student is expected to learn and achieve within a year. They must be individualized to address a student's unique needs and directly linked to their performance in school, academically or behaviorally.
IEP Present Levels	Describe a student's current abilities, strengths, and areas where they need support, based on data and observations.
IEP Service Logs	Where IEP service providers are expected to track all special education services provided to a student, as required by their IEP.
Impeachment	The process of discrediting a witness by (1) attacking their credibility and (2) convincing the panel that their testimony is false or unreliable. Through impeachment, you highlight the witness' prior inconsistent statements, biases, contradictions, or even issues with their character.
Independent study	A self-directed instructional option for students to receive education outside the traditional classroom.
Individualized Education Program ("IEP")	A written plan under the Individuals with Disabilities Education Act ("IDEA") that outlines the specialized instruction and services that a student with a disability needs to access the curriculum in school.
Individuals with Disabilities Education Act ("IDEA")	A federal law requiring public schools to provide a free and appropriate education, including special education and related services, to eligible students.

Informal, "Off the Books" Suspension	An illegal suspension that occurs when schools remove students from school without officially documenting or counting the removal as a formal suspension, where procedural and substantive protections would apply.
In-School Suspension	A suspension that is served on-campus during school hours in a supervised suspension classroom or other area designated by school administration
Interim Alternative Educational Setting ("IAES")	A temporary placement for a disabled student who has been removed from their original placement as a disciplinary measure (e.g., non-public school, independent study).
Lack of Jurisdiction	Appeal basis alleging that the expulsion does not have legal justification because the school district did not conduct the hearing within the required timeframes, the expulsion was not based on an expellable violation defined in the education code, or the student's conduct was not related to school activities or attendance.
Lack of a Fair Hearing	Appeal basis alleging that an expulsion hearing panel was biased against your student or that the hearing was otherwise unfair.
Leading Question	A question that suggests or confirms the answer you are seeking.
Letters of Support	Letters from a student's family, friends, and community members highlighting the student's character, positive contributions, and the harmful impact an expulsion would cause.
Level of Discretion	The ability a school district has under the law to choose whether to proceed with an expulsion for a particular violation or to order alternative disciplinary measures. It also determines whether the district has to make secondary findings in addition to proving that the student committed the violation.
Manifestation Determination Review ("MDR")	A meeting held after a student with an IEP or 504 plan has experienced a change in placement due to disciplinary removal. The team will determine at the meeting whether the student's behavior is a manifestation of their disability or if the behavior is a result of the school's failure to implement their IEP or 504 plan.
Medium Discretionary Violation	Refers to an Education Code violation that allows schools to exercise some flexibility in whether to suspend or expel students for behaviors that are unsafe or disrupt the learning environment. Here, a principal does not have to recommend suspension or expulsion if they find that the punishment is inappropriate or other means of correction would address the behavior.
Non-attorney Advisor	Section 48918 of the Education Code defines non-attorney advisor as an individual who is not an attorney but who is familiar with the facts of the case and has been selected by the student to assist at the expulsion hearing.
Notice of Representation	A letter that tells the school district that you will be representing the student at their expulsion hearing.

Objection	An objection is when either you or the school district raises a formal protest to a question, response, or evidence.
Open-ended Question	Questions that prompt a witness to respond in their own words and cannot be answered with a "yes" or "no." These questions are non-leading and typically begin with "who," "what," "when," "where," "why," "how," "tell me more about," "describe," or "explain," as these words encourage a witness to provide a detailed response with their own context and insights.
Opening Statement	The first part of the expulsion hearing or the portion of the hearing where student is permitted to make their case. Here is where you introduce the student, the issues, and preview the evidence.
Other Means of Correction	Interventions schools use to address student misbehavior before considering suspension or expulsion.
Out-of-School Suspension	A suspension where the school removes a student from the school campus for all or part of the day
Penalty of Perjury	A formal declaration that the information provided is true, and, if it is not, the person understands that they can be prosecuted for knowingly making a false statement.
Personal Knowledge	Something a person has experienced themselves with one of their five senses.
Postponement	Student right to reschedule or delay the expulsion hearing for up to 30 days.
Pre-suspension Conference	A conference that the Education Code requires before schools suspend a student, unless an emergency situation exists. Here, the school must give the student information about the reasons for the suspension, the evidence against them, and an opportunity to present their version of events.
Procedural Requirements	Safeguards and legal protections that are designed to ensure that schools treat students fairly under the law before disciplining them. These protections require schools and districts to follow legal processes and timelines, send required notices, and provide documentation to parents and students so they can enforce their rights in the discipline process.
Psycho-Educational Evaluation	A comprehensive special education assessment that evaluates students with identified or suspected disabilities to identify learning needs and what special education and related services are required to support them in school.
Readmission meeting	A meeting on a date set by the school board when a student is expelled to review whether the student can be readmitted to the district.
Rehabilitation plan	A plan given at the outset of an expulsion that includes a list of tasks and requirements the student must meet before they can be "readmitted" back to a comprehensive school
School Board	A panel of elected or appointed people who provide leadership and oversight for a school district.

Schooldays	A schoolday is a day on which classes are held. It does not include weekends, holidays, or administrative days. In the summer, it includes any non-holiday weekday.
Secondary Findings	Additional considerations, beyond whether the violation occurred, that the school must consider before expelling a student for a discretionary or medium-discretionary violation.
Section 504 Plan	A formal, individualized plan developed by schools to provide accommodations and services for students with disabilities eligible under Section 504 of the Rehabilitation Act.
Section 504 of the Rehabilitation Act	A federal civil rights law that prohibits discrimination based on disability in any program that receives federal fundings. It ensures that people with disabilities have equal access to opportunities and are not excluded because of their disabilities.
Special Education Assessments	Tests and observations that evaluate a student with disabilities to determine if they require special education services.
Stipulated Expulsion	A signed agreement where the student consents to being expelled without a hearing.
Student Statement	A statement written by the student to share with the panel their side of the story and what they have learned from the incident.
Substantive Requirements	Legal requirements for the content and quality of services and protections under the Education Code. In the school discipline context, substantive requirements refer to the findings schools must make, evidence they must demonstrate, and equal access to information and opportunities they must provide before they can legally discipline a student.
Suspended expulsion	An agreement where the student has been ordered to be expelled, but the enforcement of the expulsion is "suspended" for a certain period, during which the student is on "probationary status" and must complete a "rehabilitation program."
Suspension	A short-term disciplinary removal of a student from school or class.
Suspension Rate	A rate that is calculated by dividing the total number of a group's suspensions by the total number of a group's population and multiplying by 100. For example, if a group of 20 students gets 10 suspensions, their suspension rate is 10 divided by 20 (equaling .50) and multiplied by 100, which would give you a rate 50%. Practically speaking, this would mean that half of the group is suspended.
Sworn Declaration	A written statement that a person writes and signs, providing information that they have personal knowledge of and swear is true.
Teacher Suspension	A suspension where the teacher removes the student from their classroom but not from the school campus
Theory of the Case	The best story or stories you can tell at hearing using the evidence to persuade the panel to side with your student and not expel them.
Three-C's	Refers to the three steps (confirm, credit, confront) you should follow whenever you are trying to impeach a witness.

Written Notice	Legal requirement for schools to provide parents and students with information on a disciplinary decision. The notice must include specifics like the duration of the proposed discipline, a description of the incident, Education Codes allegedly violated, and whether the school considered other means of correction.
Zero Tolerance Violation	Refer to specific violations of the Education Code that, if committed by a student, trigger a mandatory recommendation for expulsion. California law requires expulsion recommendations for the following violations: possessing, selling, or holding a firearm; wielding a knife; selling a controlled substance; attempting or committing sexual assault; or possessing an explosive.


Lenny's Fact Pattern

Chapter 3: Lenny's Suspension

Lenny Pugg is an energetic 3rd grader at Neighborhood Elementary School. He loves to watch Paw Patrol, play outside with his toys, and run around with his older sister and best friend, Lucy. Lenny has an IEP and receives special education services as a student with ADHD-Impulsive type. He is a smart kid who used to make good grades, but he has been struggling with his behavior this year, and his grades have started to decline.

Over the past few months, Lenny and another student, Student 1, have not been getting along. In fact, Student 1 has been bullying Lenny because he sometimes blurts out in class and has trouble sitting still. He calls Lenny mean names in front of other kids, who all laugh at him. Lenny has tried to tell his teacher what has been happening, but the teacher just tells them both to "play nicely." Last week, Student 1 got in front of the entire class when the teacher stepped out of the room and impersonated Lenny to humiliate him. Lenny went home and decided that he would stand up to Student 1 the next time Student 1 was mean to him.

Today after school, at a community program both students attend on the school campus, Student 1threw a ball at Lenny's head and told him that it should not hurt because he is not smart. Unfortunately, the yard duty did not see this happen. The yard duty only turned around when a bunch of students started circling around the two boys to see Lenny yelling at Student 1 while pointing his finger at him. The yard duties heard Lenny say that Student 1 better not bother him again, or Lenny would "get him."

The yard duty broke up the boys. The next day at school, Lenny was sent to the front office to meet with the principal because of what the yard duty reported. When Lenny got to the office, he was asked to write down what happened, but they did not ask him any other questions. Lenny, who struggles to express himself in writing, wrote: *"I do not like [STUDENT 1] because he is mean, makes fun of me, and threw a ball at me. I told him if he does it again, I would get him back."* Lenny's dads later learned that the yard duty, the bully, and a few other students also wrote witness statements, but they were not allowed to see them.

Lenny's dads were then called to the school to "pick up" Lenny because he was being suspended for "fighting." When Lenny's dads got to the school, they saw Lenny sitting in a chair in the front office with his backpack. The front office secretary told Lenny's dads that they needed to take him home now, and the principal would call later to explain.

The principal called them later that night to tell them that Lenny had "fought" another boy at school and threatened him. He said that Lenny would be suspended for two days. They got a letter in the mail two days later with the following notice:

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg			**Date:** April 1, 2025
Student ID#: 654321		**Grade:** 3rd	**Date/Time/Location of Incident:** 03/31/2025 After school program, playground
Dates of Suspension: 04/02/2025 to 04/03/2025	**# of Days** 2	**Return Date:** 04/04/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☐ **Law Enforcement Notified**			Parent made on April 1, 2025 telephone
Contact with:			
Administrator and Title: Dean Murphey			**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/threatened to cause physical injury

Brief description of the incident causing suspension:

Lenny yelled at [Student 1] in front of a large group of students. Lenny threatened [Student 1] by saying he was going to "get him" in the future. [Student 1] reports feeling very afraid to come to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the AVUHSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

Chapter 4: Lenny's Second Suspension

Lenny Returns to School and is Bullied

After Lenny's two-day suspension, he went back to school on April 4, 2025. Every day the next week, Student 1 bullied him. On Monday, Student 1 shoved Lenny on the playground and called him a "dummy." On Tuesday, Student 1 spilled food on Lenny during lunch on purpose and then got the other kids to make "oink" noises at him. On Wednesday, Student 1 stole Lenny's notebook when the teacher wasn't looking and wrote curse words on the front of it. After school on Thursday, Student 1 tripped Lenny as he was walking out of class and told him, "You better watch out. I have something special planned for you tomorrow. Oink oink."

By Friday, April 11, 2025, before school, Lenny was fed up. He was humiliated, his favorite notebook was ruined, his dad was annoyed with him for spilling on his clothes, and the other kids kept oinking at him. He knew that Student 1's "something special" for him meant that he was going to be hurt or worse. While his dads were getting ready for work, Lenny snuck out to the garage and grabbed a small pocketknife and an empty bullet shell that his grandpa had given to him while camping last summer. He knew he would never use either of these items to hurt anyone, even Student 1, but he felt safer having these things in his backpack just in case.

Lenny's morning was terrible. Student 1 was telling everyone to find him during recess because he was finally going to teach Lenny a lesson. On top of that, he got in trouble for blurting out in class and for getting out of his seat without permission to try to tell the teacher about the bullying. When it was time for recess, Lenny was really scared. He reached into his backpack and grabbed the pocketknife and held it in his pocket.

Lenny tried to stay away from Student 1 at recess. He went to the far corner of the playground to hide. Unfortunately, Student 1 and a group of his friends found Lenny quickly, and even worse, none of the adults monitoring recess could see the boys. In what felt like a second, Lenny was surrounded by a group of oinking boys, and Student 1 started to walk towards him. Lenny reached into his pocket and pulled out the pocketknife to show Student 1 that he could defend himself, but Lenny never opened it. Lenny shouted, "You all better back up because I have this!" and he showed the closed pocketknife to the group.

The other students just laughed at him, but a younger girl saw what was happening and told a monitor that Lenny had a weapon. As the yard monitor was walking up, one of the boys yelled "RUN!" and the group dispersed, leaving Lenny on his own to be taken to the office. There, Dean Murphey searched Lenny and his backpack, finding the pocketknife in Lenny's hoodie and the bullet casing in Lenny's backpack.

Lenny is suspended

After the search, Dean Murphey took Lenny to a small office in the back and had him write a statement. Lenny asked if he could talk to his dads first, and Dean Murphey told him that they were calling dads, but he needed to do the statement now. The dean also told Lenny that the School Resource Officer was on his way with some questions.

While Lenny was writing his statement, Dean Murphey interviewed Student I and some other students and put their statements in a file in his office. He also took pictures of the bullet shell and the pocketknife and added those to the file as well.

Lenny's dads rushed to the school and got there within the hour. When they arrived, a police officer told them that he had talked to Lenny, and he was not going to cite him. He said he was being bullied and was trying to defend himself by showing the closed knife but not using it.

Dean Murphey pulled dads aside in the front office and told them that Lenny was being suspended and recommended for expulsion because he pulled a knife on a group of students and had a "weapon" in his backpack.

Dads asked what the weapon was, and Dean Murphey said that they would get a packet in a few days with the evidence once the investigation was over. For now, he told dads that Lenny was not allowed to come back to school until he said so. Lenny came out with his backpack, holding a suspension notice from the Dean Murphey.

Lenny's Dads Get an Advocate

Dads took Lenny home and called their advocate, You! You got a release of information from dads and requested Lenny's records immediately. You also reminded Dean Murphey that he needed to hold an extension of suspension conference before Lenny's suspension could be extended beyond five schooldays. Dean Murphey rudely responded, "I don't need your help to know what the law requires. You and Lenny's dads can come in next week for a conference."

The next day, the school sent you the following records:

- The suspension notice from April 1, 2025;
- The suspension notice from April 11, 2025;
- Lenny's discipline log;
- Lenny's semester 1 report card; and
- Meeting notes from Lenny's last IEP.

Original suspension notice

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 1, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 03/31/2025 After school program, playground
Dates of Suspension: 04/02/2025 **to** 04/03/2025 **# of Days** 2	**Return Date:** 04/04/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☐ **Law Enforcement Notified**		Parent made on April 1, 2025 telephone
Contact with:		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/threatened to cause physical injury

Brief description of the incident causing suspension:

Lenny yelled at [Student 1] in front of a large group of students. Lenny threatened [Student 1] by saying he was going to "get him" in the future. [Student 1] reports feeling very afraid to come to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the AVUHSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

Chapter 4: Lenny's Second Suspension

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Lenny tried to stay away from Student 1 at recess. He went to the far corner of the playground to hide. Unfortunately, Student 1 and a group of his friends found Lenny quickly, and even worse, none of the adults monitoring recess could see the boys. In what felt like a second, Lenny was surrounded by a group of oinking boys, and Student 1 started to walk towards him. Lenny reached into his pocket and pulled out the pocketknife to show Student 1 that he could defend himself, but Lenny never opened it. Lenny shouted, "You all better back up because I have this!" and he showed the closed pocketknife to the group.

The other students just laughed at him, but a younger girl saw what was happening and told a monitor that Lenny had a weapon. As the yard monitor was walking up, one of the boys yelled "RUN!" and the group dispersed, leaving Lenny on his own to be taken to the office. There, Dean Murphey searched Lenny and his backpack, finding the pocketknife in Lenny's hoodie and the bullet casing in Lenny's backpack.

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Lenny's dads rushed to the school and got there within the hour. When they arrived, a police officer told them that he had talked to Lenny, and he was not going to cite him. He said he was being bullied and was trying to defend himself by showing the closed knife but not using it.

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Lenny's Dads Get an Advocate

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The next day, the school sent you the following records:

- The suspension notice from April 1, 2025;
- The suspension notice from April 11, 2025;
- Lenny's discipline log;
- Lenny's semester 1 report card; and
- Meeting notes from Lenny's last IEP.

Original suspension notice

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 1, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 03/31/2025 After school program, playground
Dates of Suspension: 04/02/2025 **to** 04/03/2025 **# of Days** 2	**Return Date:** 04/04/2025	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** ☐ **Referral to Principal** ☐ **Law Enforcement Notified**		Parent made on April 1, 2025 telephone
Contact with:		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900(a)(1) - Caused/threatened to cause physical injury

Brief description of the incident causing suspension:

Lenny yelled at [Student 1] in front of a large group of students. Lenny threatened [Student 1] by saying he was going to "get him" in the future. [Student 1] reports feeling very afraid to come to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the AVUHSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg		**Date:** April 11, 2025
Student ID#: 654321	**Grade:** 3rd	**Date/Time/Location of Incident:** 04/11/2025, quad, recess
Dates of Suspension: 04/11/2025 **to**	**# of Days** / **Return Date:** after hearing	**Parent Requested:** to pick up student
☑ **Off Campus Suspension** ☐ **On Campus Suspension** Parent made on April 11, 2025 telephone ☐ **Referral to Principal** ☑ **Law Enforcement Notified**		
Contact with: parents		
Administrator and Title: Dean Murphey		**Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900.4 – creation of a hostile educational environment

Education Code Section 48915(a)(1)(B) – possession of a knife

Education Code Section 48915(c)(2) – brandishing a knife

Brief description of the incident causing suspension:

On April 11, 2025 during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the CUSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

Chapter 5: Lenny's Expulsion Recommendation & Extension of Suspension

Unfortunately, on April 21, 2025, the principal decided to extend Lenny's suspension, and he recommended Lenny for expulsion. The conference was 10 minutes long, and the principal extended the suspension only because Lenny has been recommended for expulsion.

Conclusion of Lenny's Case

Congratulation! After careful consideration, the school board voted not to expel Lenny! Your partnership with the student and their family, thoughtful advocacy, and thoroughly prepared arguments helped make this win possible. Lenny is relieved to put this expulsion behind him, and he is thrilled to be returning to school on Monday.


Expulsion Packet

May 27, 2025
To the parents of Lenny Pugg:
Included with this notice are the documents and records City Unified School District will present as evidence at Lenny's May 30, 2025, expulsion hearing. These are provided pursuant to Section 48918 of the Education Code.
Enclosed, please find:

- Notice of Expulsion, dated April 21, 2025
- Notice of Suspension, dated April 11, 2025
- Witness statements from:
    - Lenny Pugg
    - Student 1
    - Ms. Riley, classroom teacher
- Statement from Dean Murphey
- Picture of bullet
- Picture of pocketknife
- Lenny's behavior log
- Lenny's report card

In addition, the District will be bringing the following witness to the hearing:

- Dean Murphey

Sincerely,



Coco Guevara, Superintendent of City Unified School District

April 21, 2025

Han and Gilbert Pugg
123 Ziggy Street
Neighborhood City, California 54333

RE: Lenny Pugg
DOB: 9/21/2016
School: Neighborhood Elementary School

Dear Mr. and Mr. Pugg:

The principal of Neighborhood Elementary School has recommended the expulsion of Lenny Pugg from City Unified School District for engaging in behavior described in Education Code Sections 48900.4, 48915(a)(1)(B), and 48915(c)(2). The allegation is that:

> On April 11, 2025, during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

In order that you and Lenny may be provided an opportunity to participate in the discussion of the case, we invite you to attend an Expulsion Hearing, which has been scheduled as follows:

> DATE: Friday, May 30, 2025
> TIME: 8:30 am
> PLACE: City Unified School District Headquarters

Prior to the hearing, you may request from this office copies of the written materials concerning the student's case which are to be used at hearing. Otherwise, they will be provided to you when you arrive at our office.

During the hearing, you will have the opportunity to challenge and question any witness(es) who may testify at the hearing; dispute any other evidence; offer testimony; submit written documents; and introduce other pertinent evidentiary material on your student's behalf, including witness(es). You may also choose to be represented by an attorney or non-attorney advisor.

If, as a result of this hearing, the City Unified School District Board of Education expels your child, and you wish to enroll them in another district, you will be required by State law to advise that district of your child's expulsion from this district.

02

State law requires that you be sent notification of the hearing at least ten days prior to the date the hearing is scheduled. If you wish to postpone the hearing as scheduled, you are to make your request in writing. If this is not done, the hearing will take place as scheduled.

Please call (555) 555-5555 to let us know whether or not you plan to attend the hearing or if you have any questions concerning the information above.

Sincerely,



Coco Guevara, Superintendent of City Unified School District

NOTICE OF SUSPENSION

(Ref. E.C. 48900, 48900.2, 48900.3, 48900.4, 48900.7)

To the Parent/Guardian of: Lenny Pugg			**Date:** April 11, 2025
Student ID#: 654321		**Grade:** 3rd	**Date/Time/Location of Incident:** 04/11/2025, quad, recess
Dates of Suspension: 04/11/2025 **to**	**# of Days**	**Return Date:** **after hearing**	**Parent Requested:** to pick up student

☑ **Off Campus Suspension** ☐ **On Campus Suspension** Parent made on April 11, 2025

☐ **Referral to Principal** ☑ **Law Enforcement Notified** telephone

Contact with: parents

Administrator and Title: Dean Murphey **Phone:** (555) 123-5555

THE ABOVE NAMED STUDENT IS SUSPENDED FROM SCHOOL PER THE FOLLOWING EDUCATION CODE(S):

Education Code Section 48900.4 – creation of a hostile educational environment

Education Code Section 48915(a)(1)(B) – possession of a knife

Education Code Section 48915(c)(2) – brandishing a knife

Brief description of the incident causing suspension:

On April 11, 2025 during recess, Lenny threatened and terrified a group of students with a pocketknife he brought to school.

Other means of correction provided prior to suspension when indicated:

Lenny receives all the supports in his IEP.

During the period of off campus suspension, this student is to be under the supervision of a parent or guardian; is expressly denied access to all school campuses and facilities of the CUSD; is prohibited from attending or participating in any school-sponsored activity, irrespective of location, unless otherwise expressly authorized by the Superintendent, Superintendent's designee, Principal or Governing Board. Violations of these restrictions may result in additional disciplinary action, including misdemeanor arrest and prosecution under the provisions of the California Penal Code Section 626.2.

Signature of Administrator

cc: Parent & CUM

OGC0718

NEIGHBORHOOD ELEMENTARY SCHOOL

Student Report

Your name: LENny

Date: April 11, 2025

Time: 11:00 am

Teacher Name: MS RILEY Admin: Dean Murphey

Describe what happened:

[redacted] and [redacted] WERE bULLing me. THEY were ONKING me like a Pig. I hAD a nife bUT I WasNt gONNA use it.

Names of other students involved: [redacted]

Where did it happen?: OWTSID

Names of other students involved: [redacted]

Did you tell someone?: I TOLD my TEACHER but she dint help

Signed under penalty of perjury:

NEIGHBORHOOD ELEMENTARY SCHOOL

Student Report

Your name: [redacted] (student A)

Date: April 11, 2025
Time: 1:30 pm

Teacher Name: Ms. Riley Admin: Dean Murphey

Describe what happened:
Today at recess, I was playing then Lenny came up 2 us and yelled. He had a nife. He was mad.

Names of other students involved:
Lenny and [redacted] and [redacted]

Where did it happen?:
playgrond

Names of other students involved:
you already axed me this.

Did you tell someone?:
yes, my teacher

Signed under penalty of perjury:

_____

Ms. Riley Statement

From: M. Riley

To: Dean Murphey

Date: May 23, 2025

Subject line: Lenny's incident

Hi Dean Murphey,

Here is my summary of the incident in response to your request:

> April 11, 2025, started off as a pretty regular day for Lenny. I didn't notice anything off about his behavior at first. About mid-way through the morning, Lenny started acting out in class. He was blurting out comments while I was teaching my lesson, and he even got up out of his seat in the middle of class. I didn't send Lenny to administration because I felt I could address these behaviors in the classroom.
>
> I sent my class out to recess and stayed in my classroom to prep my next lesson. I heard from some of my students later that Lenny pulled out a knife during recess and threatened to hurt his classmates with it. I didn't see anything myself.
>
> I'm very concerned about having Lenny back in my class. I haven't had too many behavioral issues with him this year, but recently he seems a lot more withdrawn, and any student that thinks it's okay to bring a weapon to school is concerning to me.

I'm able to come to the expulsion hearing if you need me there.

Thank you,

Ms. Riley

INCIDENT REPORT

To: Coco Guevara

From: Dean Murphey

Date: May 23, 2025

Re: Lenny Pugg, April 11, 2025, Incident

On Friday, April 11, 2025, at approximately 10:30 am, I received a call over the walkie talkie from Campus Security Officer Ziggy Bush asking for support with a student who allegedly had a weapon. He stated that three third-grade students had reported to him that Lenny Pugg had a knife on him. I went to the playground and spotted a large group of students in a circle near the back corner of the playground. As I got closer to the group, I heard students making loud noises and yelling. In the middle of the group was Lenny, who I saw was very upset and tightly holding something in his right hand. He seemed to have shown what was in his hand to other students.

When the third-grade students saw me, they all ran away except for Lenny, who walked towards me looking guilty. CSO Bush and myself along with Ms. Riley who had come out to the playground by this point, walked Lenny to the office. Lenny was visibly angry and upset and kept telling Ms. Riley that the students outside were bullying him and calling him names. I immediately asked him when we reached the office if he had a knife with him. Lenny said yes. CSO Bush conducted a search and found the knife in Lenny's hoodie. A further search of Lenny's backpack yielded an empty bullet shell.

After this search, Lenny came willingly to the back office where he wrote a statement. Lenny kept asking to talk to his dads, and I told him that we were calling them. CSO Bush interviewed Student 1 and talked to a few other students, but I'm not sure which ones. He also took pictures of the bullet shell and pocketknife.

Because we found a weapon, we had no choice but to call the police. A police officer showed up and also questioned Lenny in the back office, but she determined that no further action was necessary.

Lenny's dads arrived at the campus. I met with them and told them about what happened and that Lenny would be suspended. I followed all laws with regards to the Education Code.

During Lenny's suspension, we heard from a lot of students that they were scared because of what happened. I decided that Lenny should be recommended for expulsion and should be placed on an extended suspension for everyone's safety. Again, I followed all laws with regards to the Education Code.

Picture of bullet shell



Picture of pocketknife



City Unified School District

Neighborhood Elementary School

STUDENT DETAIL BEHAVIOR LOG

To: Discipline

From: Dean Murphey

Student: Lenny Pugg

Student ID: 654321

DOB: 09/21/2016

Date Enrolled: August 15, 2021 Date Left: April 11, 2025

Date	Type	Description	Updated By and Date
April 1, 2025, 3:45 pm	Student Referrals – Discipline	**Reason:** Caused, attempted to cause, or threatened to cause physical injury **Description:** Lenny yelled at Student 1 in front of a large group of students. Lenny threatened Student 1 by saying he was going to "get him" in the future. Student 1 reports feeling very afraid to come to school. **Comments/Follow-up:** **Prior Interventions:** **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Suspension **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/02/2025 **Effective End Date:** 04/03/2025 **Number of Suspension Days:** 2	Dean Murphey 4/2/2025
April 11, 2025, 10:35 am	Student Referrals – Discipline	**Reason:** Brandishing a knife at another person; possessing a dangerous object; creating a hostile learning environment **Description:** Lenny threatened and terrified a group of students with a pocketknife he brought to school. **Comments/Follow-up:** **Prior Interventions:** Suspension **Other Means of Correction:** **Action(s) Taken:** Conference with Parent, Conference with Student, Parent Notification, Recommended for Expulsion, Law Enforcement Notification (no citation issued) **Comments/Notes:** **Suspension Type:** School Suspension **Effective Start Date:** 04/11/2025 **Effective End Date:** -- **Number of Suspension Days:** --	Dean Murphey 4/11/2025

City Unified School District

CALIFORNIA CONTENT STANDARDS ELEMENTARY REPORT CARD

Neighborhood Elementary School

Administrator: MURPHEY Year: 2024-2025

Student Name: LENNY PUGG
Student ID: 654321
DOB: 09/21/2016 Language Classification: LEP
Teacher Name: M. Riley Grade: 3 Room #: 5

Reporting Period	1st	2nd	3rd
Days Present:	60	58	
Days Absent:	0	2	
Days Tardy:	0	0	

Academic Subjects	Demonstrates Knowledge of California Content Standards	1st	2nd	3rd
English Language Arts	Foundational Reading Skills	2	1	
	Making Meaning from Text	2	1	
	Language Conventions, Effective Use, Vocabulary	2	1	
	Effective Expression Through Writing	2	1	
	Effective Expression Through Speaking and Listening	2	1	
Mathematics Content	Operations and Algebraic Thinking	3	2	
	Number and Operations in Base Ten	4	2	
	Measurement and Data	3	2	
	Geometry	3	3	
	Number and Operations—Fractions	4	3	
Mathematical Practices	Problem Solving and Precision	3	1	
	Reasoning and Explaining	3	2	
	Modeling and Using Tools	3	2	
	Seeing Structure and Generalizing	3	1	
Science	Content and Concepts	2	1	
	Conducts Investigations	3	1	
	Constructs Relevant Questions	2	1	
History-Social Science	Content and Concepts	3	2	
	Historical and Social Science Analysis Skills	2	2	
Visual and Performing Arts	Dance	4	4	
	Music	4	4	
	Visual Arts	3	4	
Physical Education	Content and Concepts	4	4	
Health Education	Content and Concepts	4	4	

Academic Scores Key

4 = Exceeds Grade Level Standards	**3** = Meets Grade Level Standards	**2** = Progressing Toward Grade Level Standards	**1** = Minimal Progress Toward Grade Level Standards	**N/A** = Not assessed in current reporting period

Teacher Comments (First Reporting Period):
Puts in great effort

Participates in class

Meets or approaching standards in most areas

Thoughtful and kind

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Second Reporting Period):

Seems distracted during class

Does not complete classroom assignments

Does not consistently participate in class

Does not complete homework assignments

Far below standards in most areas

M. RILEY	Date	GIL PUGG	Date

Teacher Comments (Third Reporting Period):

M. RILEY	Date	GIL PUGG	Date

ADDITIONAL STUDENT EVIDENCE

AMENDMENT DATE: 3/1/2025 PURPOSE: Parent request

CITY UNIFIED SCHOOL DISTRICT IEP
TEAM MEETING NOTES

Student Name: Lenny Pugg **Birthdate:** *9/21/2016* **IEP Date:** *3/1/2025*

Date Saved: 3/1/2025

Notes: Dean Murphy (admin), Mary Riley (gen ed teacher), Jen Daily (special education coordinator), Mark Tinker (speech pathologist), Gabe Ellerby (RSP teacher); Han and Gilbert Pugg (parents)

J. Daily - started meeting by introducing IEP team. The purpose of the IEP is parent request due to behavioral and academic concerns about Lenny.

Strengths and challenges:

Dean Murphy - Lenny is a polite and energetic boy who always says hello in the hallways. He has been sent to the office a few times this year for disruptive behavior, but he is always apologetic and does not take long to refocus and get back to class when he is allowed quiet time.

M. Riley - Lenny is a sweet boy who tries hard and wants to please. His favorite subjects are math, and he is a talented artist. He struggles with reading and writing, mostly with comprehension and organizing his thoughts. He is a capable student with excellent attendance, but his issues are mostly due to focus and effort on non-preferred activities. He does tend to blurt out and engage in impulsive or disruptive behavior, but he is never defiant or rude. I do worry about his ability to make friends--he does seem to struggle with that, and his peers are often annoyed with him.

G. Ellerby - Lenny is fun to work with. He loves to laugh and makes connections quickly with people who give him praise and encouragement. He has somewhat stopped progressing in reading and writing this semester, which seems to be due to a lack of interest and motivation. He loves to chat about art and sports, so it is difficult to refocus him off those areas of interest to get him to work. I have seen him come to RSP at times appearing a bit sad or withdrawn the past few months, but he doesn't want to talk about it.

M. Tinker - Lenny is a sweet kid. He tries hard in speech and loves to get answers correct. He can be impulsive and hard to redirect at times, but he is never rude.

J. Daily - Lenny is a joy to have around. His smile is infectious! His grades have slipped recently, and I have heard concerns that his impulsivity is getting the best of him in class. I have spoken to his teacher to see if I can support.

Parents - Lenny is a great son. He wants to please and is motivated to one day be an artist or a baseball player. He used to really love school, but lately he has been coming home sad and withdrawn. Also concerned about the number of calls they are getting about Lenny's classroom behavior. He has ADHD, and has always had impulsive behavior, but his other teachers were able to more easily redirect him. Concerned because they don't know what is going on. Lenny also seems to be lonely at school and they are worried that he may be experiencing bullying.