

ACE: sharing selections from CTA Advisory on suspension/expulsion

In 2015, AB 420 amended Education Code Section 49800 by removing willful defiance, in certain instances, as a reason *a principal* may use to suspend or expel students in kindergarten through third grades.

Effective July 1, 2020, SB 419 (Skinner) further amends Education Code Section 49800 to expand the prohibition of suspension and expulsion for willful defiance and disruptive behavior to grades 4 and 5 permanently and to grades 6 through 8 for a trial period, until July 1, 2025.

“Except as provided in Section 48910,” Ed Code Section 48900(k)(2) maintains the ability of a teacher to suspend a pupil in any grade level from class for disruptive behavior and willful defiance for the day of the suspension and the following day.

As per **Ed Code Section 48910**:

1. A teacher may suspend any pupil from class for any of the reasons stated in 48900 (see #1 on the previous page), including willful defiance and disruptive behavior, for the day of the suspension and the following day.
2. The teacher must report the class suspension to the principal and send the student to the principal/designee for appropriate action.
3. A pupil suspended from a class shall not be placed in another regular class during the period of suspension. If the student must remain at the school site, the pupil shall be under appropriate supervision.
4. As soon as possible, the teacher is required ask the student’s parent or guardian to attend a parent-teacher conference regarding the suspension. Other school personnel such as a school counselor or a school psychologist may attend the conference. If requested by the teacher or parent, a school administrator must also attend.
5. The student shall not be returned to the class from which he/she was suspended during two days without agreement of the teacher and principal. If the principal insists on sending the student back to the classroom, this would violate the Ed Code. If this occurs, ask the principal for the directive in writing before allowing the pupil back into the class and contact your CTA representative/site rep as soon as possible to address the violation.
6. A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal/designee for consideration of a suspension from the school.

The right to suspend or expel is not unlimited. Section 48900.5 requires that other means of correction be used for a first offense, except when a student, including a special needs student, causes physical injury; possesses a firearm or other dangerous object; possesses, uses or is under the influence of a controlled substance; or commits or attempts to commit robbery or extortion; or if a student’s presence causes a danger to persons. In such cases, a student may be suspended on the first offense.

Special Education

Students receiving special education services are subject to the same suspension rules as students not receiving such services, except that suspensions of students receiving special education services cannot exceed ten days without an IEP “manifestation determination,” meeting 20 U.S.C. Section 1415(k)(1)(B), which is a formal procedure used to determine if a student’s behavioral issue was an expression of that student’s disability. In other words: Did the disability cause the behavior? State law defers to federal law for most of the rules governing suspension and expulsion of students receiving special education services (CA Education Code Section 48915.5).

A principal may still suspend or expel students for any of the other reasons enumerated in Section 48900. The following is a list of possible reasons for suspension and/or expulsion:

<ul style="list-style-type: none">● Stealing, Bullying	<ul style="list-style-type: none">● Drugs and alcohol. Firearm replicas
<ul style="list-style-type: none">● Using force or violence. Drug paraphernalia	<ul style="list-style-type: none">● Robbery or extortion. Sexual assault
<ul style="list-style-type: none">● Firearms, knives, explosives. Receiving stolen property	<ul style="list-style-type: none">● Damaging property. Harassing or intimidating witnesses
<ul style="list-style-type: none">● Hazing, Electronic bullying, Use of tobacco or nicotine, Obscene acts	<ul style="list-style-type: none">● Causing physical injury. Habitual profanity or vulgarity