

FIX SCHOOL DISCIPLINE BILLS

AB 2537 – FACT SHEET

(Clarifies “Zero Tolerance”; Amends Education Code 48902; 48915)

WE DID IT. WITH YOUR HELP, FIVE SCHOOL DISCIPLINE REFORM BILLS WERE SIGNED INTO LAW THIS YEAR!

Now the hard work begins! We need your help to make certain that school districts around the state **change their local discipline policies** to follow the law and **educate everyone** about the changes.

What does AB 2537 do and how does it help students?

1. **Provides additional discretion for administrators to make a recommendation other than expulsion for certain acts if the factual circumstances do not warrant it or other means of correction would address the conduct.** A principal has more discretion NOT to recommend expulsion for a number of offenses if the “circumstances” do not warrant a referral for expulsion or “other means of correction” would address the conduct. These offenses include are listed at the bottom of the fact sheet in the legislative text. Expulsion should only be used when absolutely necessary. This makes it clear that administrators have the discretion to choose another path!
2. **Encourages making the decision sooner to avoid loss of instruction!** When determining whether to recommend expulsions, the law encourages a principal or the superintendent of schools to do so as quickly as possible to ensure that a pupil does not lose instructional time, as many students who are referred for expulsion lose too many school days and fall further behind.
3. **Clarifies that possession of an imitation firearm does not mandate expulsion.**The act of possessing an imitation firearm is not an offense for which suspension or expulsion is mandatory, it is discretionary. This is critical because there has been confusion about whether bringing a nerf or water gun, or other similar fake gun to school, requires immediate expulsion. It does not! School administrators do not need to take such harmful action.
4. **Clarifies that possession of over-the-counter or prescription medication is not an expellable offense.** Unlawful possession of a controlled substance does not include “the possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.” This is important because some students have been referred for expulsion for this reason.
5. **School personnel shall no longer be subjected to a fine if they fail to notify law enforcement about particular offenses on campus.**

Below, you can find the exact text of AB 2537. The law goes into effect on January 1, 2013.

How can you help make certain your school district follows the new law?

California law is clear: school board rules and policies governing discipline must be consistent with law and parents have a right to informed in advance about discipline rules and procedures. Educ. Code §§ 35291;

51101. When they develop new rules and procedures, schools must get input and participation from a parent representative. Educ. Code § 35291.5.

When the new law takes effect on January 1, 2013, you can help make certain your school district is following it by:

1. **Requesting** a copy of the district's policies, rules, and procedure governing discipline.
 - Where can you find them?
 - Parent/student handbook
 - School district's website
2. **Checking:** Do they include the new laws?
3. **Advocating** for the school district and your local school to change the policies and to educate all school personnel, parents, and students!
4. **Meet with the Superintendent (and/or principal)** and request that your school board members hold a hearing on the changes and update discipline policies. Bring other parents, students and community members who care about fixing school discipline.
5. **Spread the word:** Educate parents and students about these new laws.
6. **Report any problems:** If you see that students' rights are being violated or a school district refuses to follow the law, go to FixSchoolDiscipline.org and click on "I Need Help" to report any problems you see.

What can I do to help?

With support of the new law, you can advocate for the District to:

- Adopt a "Clarifying Zero Tolerance" district-wide policy that focuses on school-wide strategies in the new law, like allowing school districts to exercise discretion to recommend something other than expulsion for certain offenses, if the principal or superintendent determines that expulsion should not be recommended under the circumstances or that alternative means of correction would address the conduct. In the policy, get your school district to make a list of all of the types of other means of correction that could address such conduct and avoid expulsion!
- Use the new law as a tool to push the District to adopt a policy that requires school leaders to make decisions about whether to exercise their discretion to recommend something other than expulsion early in the process to avoid the loss of instruction to the student and cost and time related to proceeding with the expulsion process.
- Adopt a district-wide policy clarifying that possession of an imitation firearm or possession of over-the-counter prescription medication is not an offense for which expulsion or a referral for expulsion is automatic.
 - Go to FixSchoolDiscipline.org to find more about other school districts who have already adopted resolutions or policies so you can bring these to the attention of your school district. In December, come back to the website and you will find an easy-to-use Fix School Discipline Toolkit with everything to get you started and convince your district to adopt and implement

alternatives that reduce suspensions and expulsions in your community and template “alternatives” policies and matrixes!

So, what **EXACTLY** does the law say?

The specific changes to existing law are in bold and italics below:

SECTION 1.

It is the intent of the Legislature that the acts enumerated in Article 1 (commencing with Section 48900) of Chapter 6 of Part 27 of Division 4 of Title 2 of the Education Code form the exclusive bases for the imposition of suspension or expulsion.

SEC. 2. Section 48902 of the Education Code is amended to read:

48902.(a) The principal of a school or the principal’s designee shall, ~~prior to~~ ***before*** the suspension or expulsion of any pupil, notify the appropriate law enforcement authorities of the county or city in which the school is situated, of any acts of the pupil that may violate Section 245 of the Penal Code.

(b) The principal of a school or the principal’s designee shall, within one schoolday after suspension or expulsion of any pupil, notify, by telephone or any other appropriate method chosen by the school, the appropriate law enforcement authorities of the county or the school district in which the school is situated of any acts of the ~~pupils~~ ***pupil*** that may violate subdivision (c) or (d) of Section 48900.

(c) Notwithstanding subdivision (b), the principal of a school or the principal’s designee shall notify the appropriate law enforcement authorities of the county or city in which the school is located of any acts of a pupil that may involve the possession or sale of narcotics or of a controlled substance or a violation of Section 626.9 or 626.10 of the Penal Code. The principal of a school or the principal’s designee shall report any act specified in paragraph (1) or (5) of subdivision (c) of Section 48915 committed by a pupil or non-pupil on a schoolsite to the city police or county sheriff with jurisdiction over the school and the school security department or the school police department, as applicable.

(d) A principal, the principal’s designee, or any other person reporting a known or suspected act described in subdivision (a) or (b) is not civilly or criminally liable as a result of making any report authorized by this article unless it can be proven that a false report was made and that the person knew the report was false or the report was made with reckless disregard for the truth or falsity of the report.

~~(e) The willful failure to make any report required by this section is an infraction punishable by a fine to be paid by the principal or principal’s designee who is responsible for the failure of not more than five hundred dollars (\$500).~~

~~(f)~~ ***(e)*** The principal of a school or the principal’s designee reporting a criminal act committed by a schoolage individual with exceptional needs, as defined in Section 56026, shall ensure that copies of the special education and disciplinary records of the pupil are transmitted, as described in ~~paragraph (9) of subsection (k) of Section 1415~~ ***Section 1415(6)(k)*** of Title 20 of the United States Code, for consideration by the appropriate authorities to whom he or she reports the criminal act. Any copies of the pupil’s special education and disciplinary records may be transmitted only to the extent permissible under the federal Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec. 1232g et seq.).

SEC. 3. Section 48915 of the Education Code is amended to read:

48915.(a) ***(1)*** Except as provided in subdivisions (c) and (e), the principal or the superintendent of schools shall recommend the expulsion of a pupil for any of the following acts committed at school or at a school activity off school grounds, unless the principal or superintendent ~~finds~~ ***determines*** that expulsion is inappropriate, ~~due to the particular circumstance:~~ ***should not be recommended under the circumstances or that an alternative means of correction would address the conduct:***

~~(1)~~ ***(A)*** Causing serious physical injury to another person, except in self-defense.

~~(2)~~**(B)** Possession of any knife or other dangerous object of no reasonable use to the pupil.

~~(3)~~**(C)** Unlawful possession of any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis, **either of the following:**

(i) The first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.

(ii) The possession of over-the-counter medication for use by the pupil for medical purposes or medication prescribed for the pupil by a physician.

~~(4)~~**(D)** Robbery or extortion.

~~(5)~~**(E)** Assault or battery, as defined in Sections 240 and 242 of the Penal Code, upon any school employee.

(2) If the principal or the superintendent of schools makes a determination as described in paragraph (1), he or she is encouraged to do so as quickly as possible to ensure that the pupil does not lose instructional time.

(b) Upon recommendation by the principal, **principal or the** superintendent of schools, or by a hearing officer or administrative panel appointed pursuant to subdivision (d) of Section 48918, the governing board **of a school district** may order a pupil expelled upon finding that the pupil committed an act listed in **paragraph (1) of** subdivision (a) or in subdivision (a), (b), (c), (d), or (e) of Section 48900. A decision to expel **a pupil for any of those acts shall** be based on a finding of one or both of the following:

(1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct.

(2) Due to the nature of the act, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

(c) The principal or superintendent of schools shall immediately suspend, pursuant to Section 48911, and shall recommend expulsion of a pupil that he or she determines has committed any of the following acts at school or at a school activity off school grounds:

(1) Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the principal or the designee of the principal. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of a school district. **The act of possessing an imitation firearm, as defined in subdivision (m) of Section 48900, is not an offense for which suspension or expulsion is mandatory pursuant to this subdivision and subdivision (d), but it is an offense for which suspension, or expulsion pursuant to subdivision (e), may be imposed.**

(2) Brandishing a knife at another person.

(3) Unlawfully selling a controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.

(4) Committing or attempting to commit a sexual assault as defined in subdivision (n) of Section 48900 or committing a sexual battery as defined in subdivision (n) of Section 48900.

(5) Possession of an explosive.