

Exclusions From Attendance

Exclusion is a nonpunitive process designed to allow time away from school for a student and/or his/her parents/guardians to correct an unacceptable situation. Parental agreement with the exclusion is not required.

Children may be excluded from attendance in regular school classes for any of the following reasons:

1. Children under six years of age are excluded from the public schools except as otherwise provided in the Education Code. (Education Code 48210)

2. The Governing Board may exclude children of filthy or vicious habits, or children suffering from contagious or infectious diseases. (Education Code 48211, Code of Regulations, Title 5, Section 202)

(cf. 5141.22 - Infectious Diseases)

3. The Board may exclude any student who does not present evidence of immunization from certain infectious diseases as required by law unless the parent/guardian requests, in a written statement, exemption from the requirement on the basis of the physical condition of the student or conflict with the religious beliefs of the parent/guardian. (Health and Safety Code 120335,120365)

(cf. 5141.31 - Immunizations)

4. Any student who resides where any contagious, infectious, or communicable disease exists, or has existed, which is subject to quarantine, shall not be permitted to attend school without written permission of the health officer. (Health and Safety Code 120230)

5. Are reasonably suspected of having active tuberculosis. (Health and Safety Code 121485, 121495 and 121505)

(cf. 5141.26 - Tuberculosis Testings)

Before excluding a student from attendance, the Superintendent or designee shall send a notice to the parent/guardian of the student. The notice shall contain the following statements:

1. A statement of the facts leading to a decision to propose exclusion.
2. A statement that the parent/guardian has a right to meet with the Board to discuss the proposed exclusion.
3. A statement that at any such meeting the parent/guardian shall have an opportunity to:
 - a. Inspect all documents on which the Board is basing its decision to propose exclusion.

- b. Challenge any evidence and confront and question any witness presented by the Board/designee.
 - c. Present oral and documentary evidence on the student's behalf, including witnesses.
 - d. Have one or more representatives of the parent/guardian present at said meeting.
4. A statement that the decision to exclude the child is subject to periodic review and a statement of district procedures for such periodic review.

The Superintendent or designee shall not be required to send prior notice of exclusion to the parent/guardian if the student is excluded because: (Education Code 48213)

1. He/she resides in an area subject to quarantine.
2. He/she suffers from a contagious or infectious disease.
3. It is determined that the student would constitute a clear and present danger to the life, safety, or health of students or school personnel.

However, the Superintendent or designee shall send a notice as soon as reasonably possible after the exclusion. (Education Code 48213)

Process

1. Exclusion for filthy and vicious habits:
 - a. To initiate an exclusion, a principal or designee should:
 - (1) Document the reasons for his/her proposal.
 - (2) Confer with the Director of Student Services/designee regarding the appropriateness of exclusion.
 - (3) Request the Office of Student Services that the case be referred to the Exclusion Panel for recommendation.
 - b. The Exclusion Panel shall be composed of:
 - (1) The Director of Student Services or designee.
 - (2) The Director of Health Services or designee.
 - (3) The School Psychologist from the student's school.
 - c. The Exclusion Panel shall be convened by the Director of Student Services or designee to meet within five school days. The panel shall recommend to the Governing Board one or more of the following.

(1) That the student be excluded.

(2) That the student not be excluded.

(3) That specific alternative programs be used. Excluded students may be referred to ReStart on space available basis at the discretion of the Exclusion Panel.

d. Should the Exclusion Panel recommend exclusion, the parent/guardian of the child may appeal the decision to the Office of Student Services which shall schedule a hearing before the Appeal Panel. The Appeal Panel shall consist of the Director of Student Services, the District Hearing Officer, and the appropriate Division Administrator.

e. The Governing Board may confirm, deny, or modify the recommendation of the Exclusion Panel and/or the Appeal Panel.

2. Exclusion as a result of failure to meet state immunization requirements:

a. A principal shall exclude a student who has not met state immunization requirements, and whose parent/guardian has not signed an affidavit of exemption as allowed by law.

b. Notice shall be forwarded to the parent/guardian of the child so excluded, and readmission shall be immediate on presentation of proof that required immunizations have been administered.

3. Exclusion on the basis of clear and present danger:

a. A principal or designee may exclude a child from attendance when the principal or designee determines that the continued presence of the child would constitute a clear and present danger to the life, safety or health of students or school personnel.

b. Should such an exclusion take place, the principal or designee shall notify the Director of Student Services in writing within 3 days, specifying the reasons for the action.

c. The Exclusion Panel may be convened at the discretion of the Director of Student Services to review and/or modify the exclusion. The excluded student may be referred to ReStart at the discretion of the Expulsion Panel.

d. The Director of Student Services shall notify the Office of the Governing Board which shall provide the required notice to the parent/guardian.

Periodic Review of Exclusion

1. A decision by the Board to exclude a student on the basis of filthy or vicious habits may be reviewed prior to each school semester at the parent/guardian's written request. The request shall be directed to the Director of Student Services who shall schedule a review hearing within 5 days of the receipt of the request.

2. An exclusion based on other reasons may be reviewed and rescinded by the Division Superintendent or designee at any time the excluded student or his/her parent/guardian presents evidence adequate to assure the district that the cause of exclusion has been eliminated.

3. A report of progress toward resolution of the problem that initiated the exclusion shall be requested by the Director of Student Services/designee prior to the end of the semester of the exclusion if the parent/guardian has not initiated contact with the school district as specified in 1 or 2 above.

Legal Reference:

EDUCATION CODE

48210-48214 Persons excluded

49076 Access to records by persons without written consent or under judicial order

49408 Information of use in emergencies

49451 Parent's refusal to consent

HEALTH AND SAFETY CODE

120230 Exclusion of persons from school

120325-120380 Educational and child care facility immunization requirements

121475-121520 Tuberculosis tests for students

124025-124110 Child Health and Disability Prevention Program

CODE OF REGULATIONS, TITLE 5

202 Exclusion of students with a contagious disease

Regulation FRESNO UNIFIED SCHOOL DISTRICT

approved: September 23, 1993 Fresno, California

revised: August 29, 1996

revised: May 13, 1998

revised: September 1, 1999