

## Community Day School

### Involuntary Transfer

The Superintendent or designee may assign a student a district community day school if the student meets one or more of the following conditions: (Education Code 48662)

1. The student is expelled for any reason

(cf. 5144.1 - Suspension and Expulsion/Due Process)

Note: Education Code 48662 authorizes the involuntary transfer of students who are probation-referred pursuant to Welfare and Institutions Code 300 or 602, as provided in item #2 below. Such students include minors who are within the jurisdiction of the juvenile court and may be adjudged to be a dependent child of the court, including, but not limited to, minors who have suffered or are at substantial risk of suffering serious physical harm, neglect, serious emotional damage, sexual abuse, or physical abuse as a result of the conduct of the parent/guardian, or who have been freed for adoption by one or both parents. In addition, probation-referred students include students who are within the jurisdiction of the juvenile court and may be adjudged to be wards of the court for violating any state or federal law or any city or county ordinance defining crime, other than an ordinance establishing a curfew based solely on age.

2. The student is probation-referred pursuant to Welfare and Institutions Code 300 and 602.
3. The student is referred by a School Attendance Review Board (SARB) or other district level referral process.

(cf.5113.1 – Chronic Absence and Truancy)

The Superintendent or designee shall give first priority for assignment to a community day school to students expelled for mandatory expulsion offenses pursuant to Education Code 48915(d). Second priority shall be given to students expelled for other reasons, and third priority shall be given to students referred pursuant to item #2 or #3 above. These priorities are applicable unless there is an agreement that the County Superintendent of Schools will serve any of these students. (Education Code 48662)

Note: Pursuant to 20 USC 1415, a change in the educational placement of a student with a disability must involve the participation of the student's individualized education program (IEP) team. In addition, the educational placement of a student who is eligible for services-pursuant to Section 504 of the federal Rehabilitation Act of 1973(29 USC 794) requires the participation of the student's 504 team.

When the student to be involuntarily transferred to a community day school is a student with disabilities, as defined under the federal Individuals with Disabilities Education Act or Section 504 of the federal Rehabilitation Act of 1973, assignment to a community day school shall be determined by the student's individualized education program (IEP) or 504 team, as applicable. (20 USC 1415; 34 CFR 104.35)

(cf. 5144.2 - Suspension and Expulsion (Students with Disabilities)

(cf. 6159 - Individualized Education Program)

(cf. 6164.6 - Identification and Education under Section 504)

Students who have been involuntarily transferred to a community day school based on an expulsion order, probation referral, SARB referral, or other district-level referral process shall be notified in accordance

with the applicable laws and/or district policy. Such process shall include timely written notification of the transfer to the student and parent/guardian and an opportunity for the student and parent/guardian to meet with the superintendent or designee to discuss the transfer.

At least 10 calendar days prior to the involuntary transfer of a student as a result of a district-level referral process, the Superintendent or designee shall provide written notice of the transfer to the student's parent/guardian or to the adult student age 18 or older. The notice shall contain a statement of the facts and circumstances upon which the transfer is based, its duration, and the conditions for readmission. The notice shall advise the student's parent/guardian or adult student of the opportunity to inspect and obtain copies of all documents supporting the transfer. In addition, the notice shall also state that the parent/guardian or adult student has five school days to request a meeting with the Superintendent or designee to discuss the transfer.

If the Superintendent designates an individual to represent the district at the meeting, the individual so designated shall not be a member of the staff of the school at which the student is currently enrolled.

At the meeting, the reason for the transfer shall be reviewed with the parent/guardian or adult student and the parent/guardian or adult student may present evidence on the student's behalf.

The Superintendent or designee shall send the parent/guardian or adult student written notice of the decision to transfer or not transfer within three school days of the meeting.

If the parent/guardian or adult student desires to appeal the Superintendent's decision to the Board, he/she shall file written notice of the intent to appeal within five school days of receiving the decision. The Board shall determine whether or not to hear the appeal within 15 calendar days. If the Board desires to hear the appeal, the Board shall decide the appeal within 30 calendar days of receipt of the notice of the appeal. The Board's decision shall be final.

#### Instruction

Academic programs offered in the community day school shall be comparable to those available to students of a similar age in the school district. (Education Code 48663) The minimum school day for community day school students shall be 360 minutes of classroom instruction provided by a certificated employee. Independent study shall not be used as a means of providing any part of this minimum day. (Education Code 48663)

(cf.6112-School Day)

(cf. 6158-Independent Study)

#### Facilities

To house community day school operations, the district shall do one or more of the following: (Education Code 39141.12)

1. Use available school facilities conforming with Field Act requirements
2. Apply for emergency portable classrooms pursuant to Education Code 17085-17096.
3. Upon certifying to the state Allocation Board that all reasonable efforts have been made to use facilities that conform with the Field Act requirements of item #1 above, enter into lease agreements for facilities for which a structural engineer has submitted a report stating that substantial structural hazards do not exist.

Every three years, the Superintendent or designee shall report to the State Allocation Board on the facilities used for the district's community day programs and efforts to place these programs in facilities that conform with the requirements of item #1 above. (Education Code 17292.5)

#### Location of the School Site

A district desiring to operate a community day school to serve any of grades K-6, but no higher grades, may situate the community day school on the same site as an elementary, middle, junior high, comprehensive senior high, opportunity or continuation school when the Board certifies by a two-thirds vote that no satisfactory alternative facilities are available for a community day school in those grades. (Education Code 48661)

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#### Regulation FRESNO UNIFIED SCHOOL DISTRICT

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