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Schools, Mental Health, and the Law: Fostering Student Success

Reporting Exclusions and Disciplinary Removals

Schools **Must** Report the Exclusion or Disciplinary Removal of Students with Disabilities.

In 2006, California Education Code Section 48203 was amended to require schools to report not only the exclusion or disciplinary removal of a child who was “physically handicapped, mentally retarded, or multiple handicapped,” but the exclusion or disciplinary removal of all students who would qualify for special education based on a disability.¹ Accordingly, both public and private schools must report the exclusion or disciplinary removal of all students with disabilities. Further, the county superintendent is required to examine these reports and notify the county board of education should she determine that the case requires further review.

Which students are covered by this act?

The state’s reporting requirements cover all children with “exceptional needs” and those who are “qualified handicapped individuals.”² Accordingly, a school must report the exclusion or disciplinary removal of not only students who have been formally identified as having a disability—for example, a child who has an individualized education plan (IEP) or Section 504 plan—but also those students with disabilities who qualify but have not yet been formally identified by the school as having a disability that would qualify them for special education.

To fully comply with these reporting requirements, schools should review all expulsions, exclusions, exemptions, transfers, or suspensions beyond 10 schooldays to determine whether the student has, or is likely to have, a disability that is covered under Section 48203. As students with disabilities are disproportionately subject to disciplinary removals,³ review of disciplinary removals may also ensure that the school is complying with its affirmative duty to identify children with disabilities under state and federal law—i.e., child find.⁴

Who must file this report?

The report must be filed by the superintendent of the school district or the principal of the private school with the county superintendent of schools.⁵

¹ See 2006 Cal. Stats. ch. 59; see also *Bill Analysis*, 2006 Cal. S.B. 1327.

² For a definition of a child with an “exceptional need,” see Cal. Educ. Code § 56026. For a definition of a “qualified handicapped individual,” see Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 701 *et seq.*

³ See DANIEL J. LOSEN & TIA ELENA MARTINEZ, *OUT OF SCHOOL & OFF TRACK: THE OVERUSE OF SUSPENSIONS IN AMERICAN MIDDLE AND HIGH SCHOOLS* (UCLA ed., 2013).

⁴ See 34 C.F.R. § 300.11; Cal. Educ. Code §§ 56300-04 (“A local educational agency shall actively and systematically seek out all individuals with exceptional needs, from birth to 21 years of age, inclusive, including children not enrolled in public school programs, who reside in a school district or are under the jurisdiction of a special education local plan area or a county office of education.”).

⁵ Cal. Educ. Code § 48203(a).

What must be reported?

All exclusions and disciplinary removals of more than 10 schooldays of a child with a disability must be reported.⁶ This includes “opportunity transfers” since those transfers are generally issued for disciplinary purposes.⁷

What must this report include?

The report must include “the names, ages, last known address, and the reason for the severance, expulsion, exclusion, exemption, transfer or suspension.”⁸

When must the report be filed?

Section 48203 is silent as to when the reports must be filed or how frequently the reports must be filed. Many county offices of education, however, recommend that reports be filed once a month.⁹ Schools, therefore, should look to their local county office of education for guidance.

What is the duty of the county superintendent?

Upon receiving a report, the county superintendent is required to examine the report. Should the county superintendent determine that the interests of the child or the welfare of the state need further examination, the county superintendent is required to bring the case to the attention of the county board of education and governing board of a school district.¹⁰ The county board of education may then hold a hearing on the case.¹¹

***Still have questions? Call Mental Health Advocacy Services at 213-389-2077,
or Disability Rights California at 800-776-5746 (voice) or 800-719-5798 (TTY)***

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The California Mental Health Services Authority (CalMHSA) is an organization of county governments working to improve mental health outcomes for individuals, families, and communities. Prevention and Early Intervention programs implemented by CalMHSA are funded by counties through the voter-approved Mental Health Services Act (Prop. 63). Prop. 63 provides the funding and framework needed to expand mental health services to previously underserved populations and all of California’s diverse communities. For more information, visit www.calmhasa.org.

⁶ See *id.* (stating that the “severance, expulsion, exclusion, exemption, transfer, or suspension beyond 10 schooldays” of a child with a disability must be reported).

⁷ See, e.g., LOS ANGELES UNIFIED SCH. DIST., POLICY BULL. NO. 4478.0, OPPORTUNITY TRANSFERS (OTs) POLICY (2008).

⁸ Cal. Educ. Code § 48203(a).

⁹ See, e.g., Letter from Don Buchheit, Senior Director Student Support Services, to District/Private School/Section 504/Special Education Administrators (July 3, 2012), available at <http://www.sdcoe.net/student-services/student-support/Documents/mandatory-reporting-section-504-special-education-data.pdf> (requesting that reports be submitted by the 10th day of each month for the previous month).

¹⁰ Cal. Educ. Code § 48203(b).

¹¹ Cal. Educ. Code § 48203(c) (stating that a hearing may be held “in the manner provided in [California Education Code Section] 48914 and with the same powers of final decision as therein provided”).