

## North Orange County Regional Occupational Program

# Administrative Regulation

ROP AR 5144.1 (a)

### SUSPENSION AND EXPULSION/DUE PROCESS

#### I. Definitions

- A. Suspension means removal of a student from ongoing instruction for adjustment purposes. Suspension, however, does not mean any of the following:
  - 1. Reassignment to another ROP class where the student will receive continuing instruction.
  - 2. Referral to a certificated employee designated by the instructional administrator to advise students.
  - 3. Removal from the class, but without reassignment to another class, for the remainder of the class period provided that such removal shall not occur more than once every five school days.
- B. Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of ROP personnel.
- C. Day means a calendar day unless otherwise specifically provided.
- D. School day means a day upon which ROP courses are in session.
- E. Student includes a student's parent/guardian or legal counsel.

#### II. Cause for Suspension or Expulsion

- A. Students may be suspended or recommended for expulsion for acts enumerated below only if such acts relate to ROP activities or attendance. These acts may occur at any time, including but not limited to the following:
  - 1. While on ROP or school grounds;
  - 2. While going to or coming from course sites;
  - 3. During the lunch or dinner period, whether on or off the campus;
  - 4. During, or while going to or coming from, an ROP sponsored activity.
- B. *Suspensions or expulsions are not to be imposed against any student who is truant, tardy, or otherwise absent from assigned ROP activities.*

Suspension and Expulsion/Due Process ROP AR 5144.1(2)

- C. A student may be suspended or recommended for expulsion if it has been determined that the student has:
1. Caused, attempted to cause, or threatened to cause physical injury to another person.
  2. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated ROP employee, with approval from the assistant superintendent, educational services, or designee.
  3. Unlawfully possessed, used, sold or otherwise furnished, or been under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage or an intoxicant of any kind.
  4. Unlawfully offered, arranged or negotiated to sell any controlled substance, listed in Chapter 2 (commencing with Section 100053) of Division 10 of the Health and Safety Code, an alcoholic beverage or an intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage, or intoxicant.
  5. Committed or attempted to commit robbery or extortion.
  6. Caused or attempted to cause damage to ROP, school or private property.
  7. Has stolen or attempted to steal ROP, school or private property.
  8. Possessed or used tobacco or any product containing tobacco or nicotine products, including but not limited to cigarettes, cigars, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets, and betel. This section does not, however, prohibit use or possession by a student of the student's prescription products.
  9. Committed an obscene act or engaged in habitual profanity or vulgarity.
  10. Had unlawful possession of, or unlawfully offered, arranged, or negotiated to sell, any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
  11. Disrupted ROP or school activities or otherwise shallfully defied the valid authority of supervisors, teachers, administrators, school officials, or other school personnel engaged in the performance of their duties.

Suspension and Expulsion/Due Process ROP AR 5144.1(3)

12. Knowingly received stolen ROP, school or private property.
13. Possessed an imitation firearm.
14. Committed sexual harassment as defined in ROP Policy 5116.
15. Committed or attempted to commit a sexual assault as defined in Penal Code 261, 266c, 286, 288, 288a or 289, or committed a sexual battery as defined in Penal Code 243.4
16. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence as defined by Education Code section 33032.5 (e).
17. Intentionally engaged in harassment, threats, or intimidation directed against a student or group of students of a sufficiently severe or pervasive nature as to have the actual and reasonably expected effect of materially disrupting class work, creating substantial disorder, and invading the rights of that student or group of students by creating an intimidating or hostile educational environment.
18. Made terrorist threats against ROP officials and/or ROP property.

**III. Suspension Upon First Offense**

Suspension shall be imposed only when other means of correction fail to bring about proper conduct. A student, including an individual with exceptional needs, may, however, be suspended upon a first offense for any of the reasons enumerated in Section II, "Cause for Suspension or Expulsion," if the assistant superintendent, educational services, or superintendent determines:

- A. that the student violated subsections 1, 2, 3, 4, or 5 of Section II (physical injury to another person; possession of dangerous objects; unlawful possession of controlled substances or alcohol; unlawful sale of controlled substances or believed to be or represented as controlled substances or alcohol; robbery or extortion); or
- B. that the student's presence causes a danger to persons or property or threatens to disrupt the instructional process.

The assistant superintendent, educational services, administrator or superintendent shall immediately suspend a student possessing, selling, or otherwise furnishing a firearm, brandishing a knife at another person, or unlawfully selling a controlled substance.

#### **IV. Suspension by an Instructor**

An instructor may suspend any student from class for any of the acts enumerated in Section II, "Cause for Suspension or Expulsion," the day the offense is committed and the day following.

The teacher of any class from which the student is suspended shall allow the suspended student to complete any assignments and tests missed during the suspension.

An instructor may also refer a student to the instructional administrator for consideration of a suspension from the ROP for any of the acts enumerated in Section II..

##### **A. *Minor student enrolled on the campus where the class is located***

1. The instructor shall follow the campus disciplinary procedures.
2. In case of an emergency situation involving any student or classroom, the instructor may take any reasonable action necessary to maintain order and protect students and property. This may include notification of police or security personnel.
3. In all cases, the suspension by the instructor shall be immediately reported to the instructor's administrator and the student's campus career guidance specialist. In addition, within a day of the suspension, a written report detailing the incident(s) leading to the suspension shall be submitted to the administrator.
4. On the day of the suspension, the instructor shall make a reasonable effort to notify the student's parent or guardian, in person or by telephone, of the suspension.
5. As soon as possible, the instructor shall ask the parent or guardian of the student to attend a parent-instructor conference regarding the suspension. Reinstatement of the suspended student shall not be contingent upon attendance by student's parent or guardian at the conference.
6. The instructor's administrator may also attend the parent-instructor conference.
7. The student *shall not* be returned to the class from which the student was suspended, during the period of suspension, without the concurrence of the instructor of the class and the instructional administrator.

**B. *Minor student attending a class at a site other than his/her home school, or attending after school hours or at a community site***

1. The student shall remain in the classroom until an ROP administrator or other designee arrives and assumes authority.
2. In case of an emergency situation involving any student or classroom, the instructor may take any reasonable action necessary to maintain order and protect students and property. This may include notification of police or security personnel.
3. In all cases, the suspension by the instructor shall be immediately reported to the instructor's administrator and the student's home campus career guidance specialist. In addition, within a day of the suspension, a written report detailing the incident(s) leading to the suspension shall be submitted to the administrator.
4. On the day of the suspension, the instructor shall make a reasonable effort to notify the student's parent or guardian, in person or by telephone, of the suspension.
5. As soon as possible, the instructor shall ask the parent or guardian of the student to attend a parent-instructor conference regarding the suspension. Reinstatement of the suspended student shall not be contingent upon attendance by student's parent or guardian at the conference.
6. The instructor's administrator may also attend the parent-instructor conference.
7. The student *shall not* be returned to the class from which the student was suspended, during the period of suspension, without the concurrence of the instructor of the class and the instructional administrator.

**C. *Adult student, campus classroom or community classroom***

1. The adult student shall be asked to leave the premises immediately.
2. In case of an emergency situation involving any student or classroom, the instructor may take any reasonable action necessary to maintain order and protect students and property. This may include notification of police or security personnel.
3. In all cases, the suspension by the instructor shall be immediately reported to the instructor's administrator and, within a day of the suspension, followed up with a written report detailing the incident(s) leading to the suspension.

4. On the day of the suspension, the instructor shall immediately arrange a student-instructor conference regarding the suspension.
5. The instructor's administrator may also attend the student-instructor conference.
6. The student *shall not* be returned to the class from which the student was suspended, during the period of suspension, without the concurrence of the instructor of the class and the instructional administrator.

***D. Parent's/guardian's class attendance following student suspension***

1. Whenever a student is suspended from a class because the student committed an obscene act, engaged in habitual profanity or vulgarity, or disrupted school activities or otherwise shallfully defied valid staff authority, the instructor of the class from which the student was suspended may require the student's parent or guardian to attend the student's class.
2. If the instructor elects to impose this requirement, the instructor shall notify the instructional administrator in writing that the instructor wishes to require the attendance of the parent or guardian on the date of the student's return from suspension or within ten (10) days of the student's return from suspension, in addition to attending the parent-teacher conference.
3. Upon receipt of this written request, the instructional administrator shall, within two (2) school days, send written notice to the parent or guardian stating that, pursuant to Education Code, Section 48900.1, the instructor may require the parent or guardian to attend the student's class upon the student's return or within ten (10) school days of the student's return. The notice should also state that the parent or guardian, after completing the classroom visitation and before leaving the ROP site, shall meet with the instructional administrator or designee regarding the suspension.
4. The Board recognizes that parent/guardian compliance with this policy may be delayed, modified, or prevented by serious illness, injury, or disability, absence from town, or inability to get release time from work.
5. Required parent/guardian attendance shall apply only to a parent or guardian actually living with the student suspended.

V. **Suspension by the Superintendent or Assistant Superintendent, Educational Services**

- A. The superintendent; assistant superintendent, educational services; or designee may suspend a student from the ROP for any of the reasons enumerated in Item II "Cause for Suspension or Expulsion" for no more than five (5) consecutive school days.
- B. Suspension by the superintendent; assistant superintendent, educational services; or designee shall be preceded by a conference which is conducted by the superintendent; assistant superintendent, educational services; or designee between the student and, whenever practicable, the instructor and the administrator. At the conference, the student: 1) shall be informed of the reason for the suspension and the evidence against the student, and 2) shall be given the opportunity to present the student's version of events and evidence in the student's defense.
- C. The superintendent; assistant superintendent, educational services; or designee may suspend a student without affording the student an opportunity for a conference only if the superintendent; assistant superintendent, educational services; or designee determines that an emergency situation exists. If a student is suspended without a conference prior to suspension, both the parent or guardian and the student, or only the student in the case of an adult, shall be notified of the student's right to such a conference and the student's right to return to the ROP for such purpose.
- D. The conference shall be held within two (2) school days of the suspension, unless the student waives this right or is physically unable to attend for any reason, including, but not limited to, incarceration or hospitalization. The conference shall then be held as soon as the student is physically able to return to the ROP for the conference.
- E. At the time of suspension, an ROP employee shall make a reasonable effort to contact the student's parent or guardian in person or by telephone. Whenever a student is suspended from the ROP, the parent or guardian shall be notified in writing of the suspension. The letter shall contain the following:
  - 1. A statement of the facts leading to the decision to suspend.
  - 2. The date and time when the student shall be allowed to return to the ROP.
  - 3. A statement of the right of the student or parent or guardian to request a meeting with the superintendent; assistant superintendent, educational services; or designee.
  - 4. A statement of the parent/guardian's or the student's right to have access to the student's records, as per the ROP Student Records Policy and

5. A request, when applicable, that the parent or guardian attend a conference with ROP officials regarding the student's behavior, including notice that state law requires parents or guardian to respond to such request without delay.
- F. Except as provided in Item "G" below, no student shall be suspended from the ROP for more than twenty (20) days in one school year.
- G. In a case where an expulsion is being processed by the Board of Trustees, the superintendent or other person designated by the superintendent in writing may extend the suspension until such time as the Board of Trustees has rendered a decision in the action pursuant to Education Code, Section 48914, provided that the superintendent or the superintendent's designee has determined, following a meeting in which the student and the student's parent or guardian in the case of a minor are invited to participate, that the presence of the student in the ROP would cause a danger to persons or property or a threat of disrupting the instructional process.
- H. For the purposes of this section, the superintendent's designee is an administrator specifically designated in writing to assist with disciplinary procedures.
- I. A suspended student may be allowed to complete all assignments and tests missed during the suspension that can be reasonably provided and, upon satisfactory completion, shall be given full credit. The instructor of any class from which a student is suspended shall determine what assignments the student must complete and in what period of time. The tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the student missed during the suspension.
- J. The superintendent or the superintendent's designee's decision regarding suspension is final. The superintendent may also recommend expulsion of the student from the ROP to the Board of Trustees.

## **VI. Rules and Regulations Governing Expulsion**

When a student fails to respond to other disciplinary action, or where there is a single act of a nature grave enough, as in 1-4 below, to question the advisability of continuing the student in the ROP because of the potential danger to the welfare of that student or of other students, the student and the student's parent or guardian shall be asked to meet with the expulsion panel.

- A. The superintendent shall recommend a student's expulsion for any of the following acts, unless the superintendent finds that expulsion is inappropriate, due to the particular circumstance:

Suspension and Expulsion/Due Process ROP AR 5144.1(9)

1. Causing serious physical injury to another person, except in self-defense;
  2. Possession of any firearm, knife, explosive, or other dangerous object of no reasonable use to the student at school/ROP or at an ROP activity off school or ROP grounds;
  3. 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);
  4. Robbery or extortion.
- B. Upon recommendation by the superintendent or by the expulsion panel, the Board of Trustees may order a student expelled upon finding that the student committed an act listed in subdivision (A) or in subdivision (a), (b), (c), (d), or (e) of Education Code section 48900. A decision to expel 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 student causes a continuing danger to the physical safety of the student or others.
- C. The superintendent shall immediately suspend, pursuant to Education Code section 48911, and shall recommend expulsion of a student that he or she determines has committed any of the following acts while on ROP or school grounds or at an ROP activity off ROP or school grounds:
1. Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the student had obtained prior written permission to possess the firearm from a certificated ROP employee, with approval from the assistant superintendent, educational services, or designee. This subdivision applies to an act of possessing a firearm only if the possession is verified by an employee of the ROP.
  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.
- D. The Board of Trustees shall order a student expelled upon finding that the student committed an act listed in subdivision (c), and shall refer that student to a ROP of study that meets all of the following conditions:

Suspension and Expulsion/Due Process ROP AR 5144.1(10)

1. Is appropriately prepared to accommodate students who exhibit discipline problems.
2. Is not provided at a comprehensive middle, junior, or senior high school, or at any elementary school.
3. Is not housed at the site attended by the student at the time of the suspension.

This subdivision shall not apply to students who are eighteen (18) years of age or older.

- E. Upon recommendation by the superintendent, or by the expulsion panel, the Board of Trustees may order a student expelled upon finding that the student, at a course site or on school grounds, or at a school or ROP activity off ROP or school grounds violated subdivision (f), (g), (h), (i), (j), (k), (l), or (m) of Education Code section 48900, or Education Code section 48900.2 or 48900.3, and either of the following:
1. That other means of correction are not feasible or have repeatedly failed to bring about proper conduct.
  2. That due to the nature of the act, the presence of the student causes a continuing danger to the physical safety of the student or others.
- F. The Board of Trustees shall refer a student who has been expelled pursuant to subdivision (B) or (E) to a ROP of study that meets all of the conditions specified in subdivision (D). Notwithstanding this subdivision, with respect to a student expelled pursuant to subdivision (E), if the superintendent certifies that an alternative ROP of study is not available at a site away from a comprehensive middle, junior, or senior high school, or an elementary school, and that the only option for placement is at another comprehensive middle, junior, or senior high school, or another elementary school, the student may be referred to a ROP of study that is provided at a comprehensive middle, junior, or senior high school, or at an elementary school.
- G. Expulsion of Student with Previously Identified Exceptional Needs
1. In a matter involving a student with previously identified exceptional needs who is currently enrolled in a special education ROP, the Board of Trustees may order the student expelled pursuant to subdivision (b) or (d) of Education Code section 48915 only if all of the following conditions are met:
    - a. An individualized education ROP team meeting is held and conducted pursuant to Article 3 (commencing with Section 56340) of Chapter 2 of Part 30 of the Education Code.

- b. The team determines that the misconduct was not caused by, or was not a direct manifestation of, the student's identified disability.
    - c. The team determines that the student had been appropriately placed at the time the misconduct occurred.
2. For purposes of this section, all applicable procedural safeguards prescribed by federal and state law and regulations apply to proceedings to expel students with previously identified exceptional needs, except that, notwithstanding Education Code section 56321, subdivision (e) of Education Code section 56506, or any other provision of law, parent/guardian consent is not required prior to conducting a pre-expulsion educational assessment pursuant to subdivision (4), or as a condition of the final decision of the Board of Trustees to expel.
3. The adult student or parent or guardian of each student with previously identified exceptional needs has the right to participate in the individualized education ROP team meeting conducted pursuant to subdivision (1) preceding the commencement of expulsion proceedings, following the completion of a pre-expulsion assessment pursuant to subdivision (4), through actual participation, representation, or a telephone conference call. The meeting shall be held at a time and place mutually convenient to the adult student or parent or guardian and the ROP within the period, if any, of the student's pre-expulsion suspension. A telephone conference call may be substituted for the meeting. Each adult student or parent or guardian shall be notified of his or her right to participate in the meeting at least forty-eight (48) hours prior to the meeting. Unless an adult student or parent or guardian has requested a postponement, the meeting may be conducted without the adult student or parent or guardian's participation, if the notice required by this subdivision has been provided. The notice shall specify that the meeting may be held without the adult student or parent or guardian's participation, unless the adult student or parent or guardian requests a postponement for up to three (3) additional school days pursuant to this subdivision. If a postponement has been requested and granted, the ROP may extend any suspension of a student for the period of postponement if the ROP notifies the adult student or parent or guardian that the suspension shall be continued during the postponement. The suspension shall not be extended beyond ten (10) consecutive school days, however, unless agreed to by the adult student or parent or guardian, or by a court order. If an adult student or parent or guardian who has received proper notice of the meeting refuses to consent to an extension beyond ten (10) consecutive school days and chooses not to participate, the meeting may be conducted without the adult student or parent or guardian's participation.

Suspension and Expulsion/Due Process ROP AR 5144.1(12)

4. In determining whether a student should be expelled, the individualized education ROP team shall base its decision on the results of a pre-expulsion educational assessment conducted in accordance with the guidelines of Section 104.35 of Title 34 of the Code of Federal Regulations, which shall include a review of the appropriateness of the student's placement at the time of the alleged misconduct and a determination of the relationship, if any, between the student's behavior and his or her disability.
  5. If the individualized education ROP team determines that the alleged misconduct was not caused by, or a direct manifestation of, the student's disability, and if it is determined that the student was appropriately placed, the student shall be subject to the applicable disciplinary actions and procedures described under this section.
  6. The parent or guardian of each student with previously identified exceptional needs, and each adult student eligible for special education services, has the right to a due process hearing conducted pursuant to Section 1415 of Title 20 of the United States code if the Adult student, parent or guardian disagrees with the decision of the individualized education ROP team made pursuant to subdivision (5), or if the adult student, parent or guardian disagrees with the decision to rely upon information obtained, or proposed to be obtained, pursuant to subdivision (4).
  7. No expulsion hearing shall be conducted for an individual with exceptional needs until all of the following have occurred:
    - (a) A pre-expulsion assessment is conducted.
    - (b) The individualized education ROP team meets pursuant to subdivision (1) (a).
    - (c) Due process hearings and appeals, if initiated pursuant to Section 1415 of Title 20 of the United States Code, are completed.
  8. Pursuant to subdivision (a) of Education Code section 48918, the statutory times prescribed for expulsion proceedings for individuals with exceptional needs shall commence after the completion of paragraphs (a), (b), and (c) in subdivision (7).
  9. If an individual with exceptional needs is excluded from school bus transportation, the student is entitled to be provided with an alternative form of transportation at no cost to the student or parent/guardian.
- H. Application of Restrictions and Special Procedures for Expulsion of Student with Exceptional Needs Because of Possession of Dangerous Object: In the case of a student's possession of a firearm, knife, explosive, or other dangerous object or weapon of no reasonable use to the student at an ROP facility/school or at an ROP

Suspension and Expulsion/Due Process ROP AR 5144.1(13)

or school activity off school grounds, or if a student knowingly possesses, uses, or sells illegal drugs or solicits the sale of a controlled substance at an ROP facility/school or at an ROP or school activity off school grounds, the restrictions and special procedures detailed in section (G) for the expulsion of a student with exceptional needs shall apply only as mandated under federal law, including Section 1415 Title 20 of the United States Code.

- I. Registered Letter Notifying of Meeting: The parent or guardian and the student shall be notified of the place, time, and date of the meeting and of the specified charges against the student and the specific school rule, board policy or law that has been broken.
- J. Expulsion Panel Meeting: The expulsion panel shall consist of at least the assistant superintendent, educational services, or designee, and the involved administrator and instructor.
- K. These procedures shall be followed by the expulsion panel:
  - 1. The specific charge(s) shall be stated with the specific rule, policy or law that has been broken.
  - 2. The student shall be encouraged to present any facts concerning the charges against the student.
  - 3. The student shall be permitted to have witnesses present to speak on the student's behalf.
  - 4. The student shall be permitted to question available witnesses concerning the charges.
  - 5. A full transcript of each meeting shall be maintained. The transcript shall be typed and shall accompany the committee recommendations.
  - 6. The recommendation shall be sent to the superintendent for the Board of Trustees' review and action.
- L. When a recommendation for expulsion is made to the Board of Trustees, the assistant superintendent, educational services, or designee may suspend the student until the Board of Trustees takes action on the expulsion recommendation. If the suspension is to exceed limits prescribed in Section V above, the assistant superintendent, educational services may extend the expulsion pending Board action provided it has been determined, following a meeting in which the student and the student's parent or guardian are invited to participate, that the presence of the student at the ROP would cause danger to persons or property or is a threat of disrupting the instructional process (Education Code, Section 48911 (g) ).

## **VII. Procedures for Recommending Expulsion to the Board of Trustees**

If the recommendation of the expulsion panel is for expulsion, the following procedures shall be followed:

- A. An expulsion/reinstatement request shall be sent to the superintendent or designee.
- B. Any student records to be used as evidence shall be listed on a separate sheet or letterhead with the following statement at the end of the list:

"I certify that the above listed and attached materials are true and correct copies of official records of North Orange County Regional Occupational ROP."

Signed (Administrator)

- C. Four (4) packets shall be prepared containing items listed in VII A and B. One (1) packet shall be hand delivered to the superintendent or designee. The superintendent or designee shall review it and deliver it to the ROP's legal advisor. The remaining three (3) packets shall be brought to the expulsion hearing. Two (2) packets shall be used as exhibits and one (1) shall be used by the Board of Trustees.

## **VIII. Time Limits**

The expulsion hearing shall be held within thirty (30) school days of the date expulsion is recommended, or within twenty-five (25) school days of the date the assistant superintendent, educational services, determines that the student has committed any of the acts enumerated in Section II above, unless the student or the student's parent or guardian requests, in writing, that the hearing be postponed. The request should be made at least five (5) days prior to the date of hearing. The student is entitled to at least one postponement of an expulsion hearing for a period of not more than thirty (30) calendar days. Thereafter, any additional postponement may be granted at the discretion of the Board of Trustees. If compliance with the above time requirements by the Board of Trustees is impracticable, the expulsion hearing may be delayed by the superintendent, for a good cause, up to five (5) additional school days. Reasons for the extension of the time for the hearing shall be included as a part of the record at the time the expulsion hearing is conducted.

## **IX. Procedures Prior to Expulsion Hearing**

- A. The Board of Trustees shall conduct a hearing to consider the expulsion of a student in a session closed to the public, unless the student requests, in writing, at least five (5) days prior to the date of hearing that the hearing be conducted at a public hearing.

Suspension and Expulsion/Due Process ROP AR 5144.1(15)

- B. The right of the student or the student's parent or guardian to request and have a hearing to consider the expulsion of the student who has been recommended for expulsion exists as provided herein.
- C. At least ten (10) days prior to an expulsion hearing, the assistant superintendent, educational services, or designee shall send by registered mail the Notice of Expulsion Hearing. The notice shall be, insofar as is practicable, in the primary language of the student's parent or guardian and shall contain the information set forth below:
  - 1. The ROP's recommendation concerning the duration of the expulsion;
  - 2. A statement giving notice of the date and place of the expulsion hearing;
  - 3. A declaration setting forth the specific facts which support the charge(s) that the student has committed an act(s) set forth in Section II above;
  - 4. A statement that the student may appear in person and may employ and be represented by counsel;
  - 5. A statement that the student has the right to inspect and obtain copies of all documents to be used by the ROP at the hearing;
  - 6. A statement that the student has the right to confront all witnesses who testify at the hearing, as well as question all other evidence presented;
  - 7. A statement that the student has the right to present testimonial or documentary evidence on the student's behalf, including witnesses;
  - 8. Notice of the student's or parent/guardian's obligations, upon enrollment in a new regional occupational ROP, to inform the receiving ROP of the student's status with the North Orange County Regional Occupational ROP;
  - 9. The Student Request for Expulsion Hearing form;
  - 10. A copy of Board-approved policies and administrative regulations that relate to the alleged violation(s).
- D. A student who wants an expulsion hearing must return the Student Request for Expulsion Hearing form on or before the sixth (6) school day after receipt of the Notice of Expulsion Hearing.
- E. In the absence of a request for an expulsion hearing from the student, the Board of Trustees may act upon the ROP's Notice of Expulsion Hearing after the time to request an expulsion hearing as set forth in Item X has expired.

Suspension and Expulsion/Due Process ROP AR 5144.1(16)

- F. Request for postponements of the expulsion hearing made after the fifth (5) day prior to the expulsion hearing date shall be made to the persons conducting the expulsion hearing and may be granted upon good cause being shown.

**X. Expulsion Hearing**

- A. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence.
- B. The Board of Trustees may, upon a finding that good cause exists, determine that the disclosure of the identity of a witness and the testimony of that witness at the hearing would subject the witness to an unreasonable risk of harm. Upon this determination, the testimony of the witness may be presented at the hearing in the form of sworn declarations which shall be examined only by the Board of Trustees. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the student.
- C. A record of the hearing shall be made and maintained by the Board of Trustees. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the hearing can be made.
- D. Technical rules of evidence shall not apply to the hearing, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.

**XI. Expulsion Decision**

- A. A decision of the Governing Board to expel shall be supported by substantial evidence showing that the student committed any of the acts enumerated in Education Code, Sections 48900, 48900.2, 48900.3 or 48900.4.
- B. A decision of the Board of Trustees regarding expulsion shall be made within thirty-five (35) school days of the date of the ROP's Notice of Expulsion Hearing recommending expulsion or within forty (40) school days of the date suspension was ordered, whichever occurs first. If the student requests, in writing, that such decision be postponed, the expulsion decision time requirements may likewise be extended. In the event that compliance with the above time requirement is impracticable, the expulsion hearing may be delayed, for good cause, up to five (5) additional school days.
- C. If the Board of Trustees' decision is against expulsion, the student shall be immediately readmitted and allowed to return to the classroom in which the student had been in attendance prior to the suspension or to any other instructional ROP on mutual agreement between the assistant superintendent, educational services, and the student.

Suspension and Expulsion/Due Process ROP AR 5144.1(17)

- D. The Board of Trustees may suspend the enforcement of an expulsion decision for a period of not more than one (1) full semester in addition to the balance of the semester in which the Board votes to expel.
- E. Whether an expulsion hearing is conducted in closed or public session, the Board of Trustees may meet in closed session to deliberate and determine if the student should be expelled. If the Board admits any other person to a closed deliberation session, the parent or guardian of the student, the student, the counsel of the student, and the counsel of the parent or guardian of the student shall be allowed to attend the closed session.
- F. The Board of Trustees shall recommend a plan of rehabilitation for the student at the time of the expulsion order which may include but not be limited to periodic review, assessment at the time of review for readmission, recommendations for improved academic performance, tutoring, job training, counseling, employment, community service, or other rehabilitative ROPs.
- G. Whether a student expulsion hearing is conducted in closed or public session by the Board of Trustees, a final action to expel shall be made by the Board of Trustees at a public meeting.
- H. Written notice of any decision to expel or suspend the enforcement of an expulsion order during a period of probation shall be sent by registered mail to the adult student or minor student's parent or guardian accompanied by notice of the right to appeal such expulsion to the County Board of Education.
- I. The student or the parent or guardian of a minor student shall be informed by a registered letter of the Board of Trustees' action. If the student is expelled, the letter shall contain specific alternatives open to the student in order to continue the student's education outside of the ROP, and shall describe methods for seeking reinstatement in the ROP, if any. These methods shall include provisions for yearly appeals at the request of the student or the student's parent or guardian. The letter shall also inform the student and parent/guardian of their obligation, upon enrollment in a new regional occupational ROP, to inform the receiving ROP of the student's expulsion from the North Orange County Regional Occupational ROP, and shall describe procedures for appealing the action of the Board of Trustees to the County Board of Education.
- J. An expulsion may, at the Board of Trustees' discretion, continue for the remainder of the period the student would otherwise have had the right to attend the ROP. A student expelled for a period which extends beyond the end of the semester following the semester during which acts leading directly to the expulsion occurred, however, may petition to be readmitted pursuant to the procedure set forth in Item XI (Petition for Readmission).

## **XII. Petition for Readmission**

A student expelled for a period extending beyond the end of the semester following the semester during which the acts leading directly to the expulsion occurred may petition to be readmitted to the regular instructional ROP as provided herein. The purpose of a readmission proceeding is to determine whether the student's readmission shall adversely affect the regular instructional ROP.

### **A. Procedure Prior to Readmission Hearing**

1. A petition for readmission to the regular instructional ROP, hereinafter called "petition for readmission," may be filed no sooner than the last day of the semester following the semester during which the expulsion decision was made. For a student expelled for committing an act contained in Education Code section 48915 (c), a petition for readmission may be filed no sooner than one (1) year from the date of the expulsion. The Board of Trustees may, however, for good cause shown in writing, permit a petition for readmission to be filed and considered prior to that time.
2. The petition for readmission shall contain information the ROP shall need to respond to the petition, as set forth in the ROP regulations implementing this policy.
3. After the receipt of the petition for readmission, the ROP shall conduct a review of the petition, deliver its response to the petition for readmission to the Board of Trustees, and mail a copy to the student by certified mail. The ROP's response shall recommend that the petition for readmission be granted or denied, setting forth the reasons for its response.
4. After receiving the student's petition and the ROP's response, the Board of Trustees shall either grant the petition based upon its review of the petition and response, or set the matter for a hearing before the readmission panel to receive a full evidentiary presentation prior to making its decision to grant or deny the petition for readmission. If the Board of Trustees sets the matter for hearing, the ROP shall send the student a written notice by certified mail setting forth time, date, and place of readmission hearing.
5. Prior to the readmission hearing, the student or ROP may inspect and copy documents in possession of the other which each intends to use at the readmission hearing and which are not otherwise privileged.
6. The readmission panel shall consist of:
  - a. Assistant superintendent, educational services, or designee;
  - b. One non-involved administrator;
  - c. One additional administrative council staff member.

7. The readmission panel shall conduct hearings to consider appeals for readmission petitions. Following such hearings, the panel shall present findings of fact and recommendations to the Board of Trustees.

B. Readmission Hearing Procedures

The procedure shall govern the readmission hearing. Where this procedure is silent, or good cause is shown, the person(s) conducting the hearing may apply other rules of adjudication.

1. The superintendent shall designate an individual to conduct the hearing and rule on questions concerning evidence and procedure.
2. The readmission hearing shall be closed to the public unless the student has made a written request for a public hearing at least five (5) days prior to the hearing date. If such request is made, the readmission hearing shall be public.
3. A written transcript of the readmission hearing shall be maintained.
4. Technical rules of evidence shall not apply to the readmission hearing, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
5. The student has the burden of proving that readmission shall not adversely affect the regular instructional ROP.
6. The student and the ROP each may be represented by counsel, call witnesses, introduce evidence, testify, be called to testify, and question adverse witnesses.
7. Each witness shall give testimony under oath.
8. The readmission hearing shall be completed within five (5) school days of the date on which the hearing began.

C. Presentation of Evidence

The hearing shall proceed in the following manner, unless the person(s) conducting the hearing, for good cause, directs otherwise:

1. The student's petition for readmission, the ROP's response, and a copy of the Board Policy on Student Discipline shall be made a part of the record at the beginning of the readmission hearing.

Suspension and Expulsion/Due Process ROP AR 5144.1(20)

2. The student and the ROP shall be given an opportunity to make an opening statement briefly summarizing their cases, describing the evidence to be presented and explaining how it shall support their respective positions.
3. The student may present witnesses and other evidence subject to examination by the ROP.
4. The ROP may present witnesses and other evidence subject to examination by the student.
5. The parties may respectively offer rebuttal evidence.
6. The ROP and the student may address the person(s) conducting the hearing regarding the manner in which the evidence admitted during the hearing supports their position.
7. The readmission hearing shall be completed within five (5) school days of the date on which the hearing was commenced.

D. Readmission Decision

1. The readmission panel shall prepare findings of fact that support their decision as to whether the student's readmission shall or shall not adversely affect the regular instructional ROP.
2. All findings of fact must be supported by a preponderance of the evidence received at the readmission hearing.
3. The readmission panel shall, within three (3) school days following the hearing, submit their written findings and recommendation regarding readmission to the Board of Trustees. The Board of Trustees shall receive the findings of fact and recommendation in executive session.
4. A decision of the Board of Trustees regarding readmission shall be made within forty (40) school days of the date the student filed a petition for readmission, unless the student requests in writing that the readmission hearing be postponed, in which case the time requirements for the Board of Trustees' decision on the petition for readmission may likewise be extended. In the event that compliance with the above requirements is impracticable, the readmission hearing may be delayed, for good cause, up to five (5) additional school days.
5. A decision to deny the student's petition for readmission must be based upon a finding that the student has not met the conditions of any rehabilitation plan established at the time of the expulsion, or that the student continues to pose a danger to campus safety or to other students or employees of the ROP.

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