

AMENDED IN SENATE SEPTEMBER 13, 1995

AMENDED IN SENATE JULY 12, 1995

AMENDED IN SENATE JUNE 29, 1995

AMENDED IN ASSEMBLY APRIL 6, 1995

AMENDED IN ASSEMBLY MARCH 7, 1995

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 200

Introduced by Assembly Member Allen
(Principal coauthor: Senator Johnston)

January 26, 1995

An act to amend Sections ~~1980~~, 1981, 1983.5, ~~42238.18~~, ~~48900~~, ~~48900.6~~, 48915, 48915.2, 48915.5, 48916, ~~and 48918~~ 48918, ~~and 49079~~ of, to add Section ~~48926~~ 1982.3 to, and to add Article 3.5 (commencing with Section 32225) to Chapter 2 of Part 19 of, and to repeal Sections ~~1982.5~~ and *Section* 48915.7 of, the Education Code, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

AB 200, as amended, Allen. Education.

(1) ~~Existing law authorizes county boards of education to establish and maintain one or more community schools.~~

~~This bill would require the superintendent of schools of a county that does not maintain a community school to develop a plan with the governing board of the school districts in that county to ensure that pupils in that county who need an~~



~~alternative school placement are served. This requirement would impose a state-mandated local program.~~

(2) Existing law authorizes a county board of education to enroll in a community school a pupil who has been expelled for (A) causing serious physical injury to another person, except in self-defense, (B) possessing a designated dangerous object, (C) selling a designated controlled substance, (D) committing robbery or extortion, or (E) possessing a firearm, and specifies certain levels of apportionments for those pupils.

This bill would specify the same level of apportionment for pupils ~~that~~ *who* are expelled for the 5 reasons stated above and would authorize the county board also to enroll pupils who are expelled for ~~specified~~ *a related acts act*.

Existing law establishes a method for providing revenue limit apportionments to county superintendent of schools operating community schools for average daily attendance generated by pupils enrolled in those schools.

This bill would require any amounts received by a county superintendent of schools for revenue limit purposes that are derived from the average daily attendance generated by pupils enrolled in a community school be expended only for community school purposes.

(3) Existing law provides that community school apportionments may be claimed only for pupils enrolled in grades 7 to 12, inclusive.

This bill would provide that these apportionments may be claimed also for pupils who are enrolled in kindergarten and grades 1 to 6, inclusive, and *who* are expelled from a school district.

(4) Existing law contains provisions relating to school safety, but makes no specific provision for the installation of 2-way communication devices in public school classrooms.

This bill would state the Legislature's intent that each school district and each county superintendent of schools equip classrooms with 2-way communication devices that a teacher can use if a medical emergency or violent crime occurs in a classroom.

(5) *Existing law provides that any county superintendent of schools operating juvenile court schools, county group home and institutions schools, or community schools shall*



maintain an account in their general fund to be known as the juvenile court and community school account, as specified. Existing law provides that the net ending balance, except for those funds placed in a capital outlay fund, shall not exceed 15% of the previous year's expenditures.

This bill would limit the net ending balance in a juvenile court and community school account to the greater of 15% of the previous year's expenditures or \$25,000.

(6) Existing law enumerates the acts for which a pupil may be suspended or expelled. These acts include possession of a firearm.

This bill would add possession of an imitation firearm to the list of acts for which a pupil may be suspended or expelled and would define "imitation firearm." By adding this act to those for which a pupil may be suspended or expelled, the bill would impose a state-mandated local program.

(7) Existing law authorizes the principal of a school, the principal's designee, or the county superintendent of schools to require a pupil to perform community service, as specified, instead of suspending or expelling a pupil.

This bill would authorize the governing board of a school district also to take this action.

(8) Existing law requires a principal or superintendent of schools, except in certain circumstances, to recommend the expulsion of a pupil for the acts listed in (A) and (D) of paragraph ~~(2)~~ (1) above, and authorizes the governing board, upon recommendation as specified, to expel that pupil or a pupil who commits specified related acts. Existing law requires a principal or superintendent of schools to suspend immediately and recommend for expulsion a pupil found in possession of a firearm at a school or at a school activity off school grounds and also requires the governing board, when certain conditions are met, to expel that pupil or refer that pupil to a specified program of study.

This bill would require a principal or superintendent of schools to recommend the expulsion of a pupil for an act listed in (A), (B), and (D), inclusive, of paragraph (1) above, or for unlawful possession of a designated controlled substance, and would authorize the governing board, upon recommendation as specified, to expel that pupil upon specified findings. The



~~bill would require the immediate suspension and a recommendation of expulsion of a pupil in grades 7 to 12, inclusive, for possessing, selling or otherwise furnishing a firearm, except as specified, for causing harm to, or threatening harm to, another person with a knife, as defined, or for unlawfully selling a controlled substance, as specified, and would require the governing board to expel that pupil upon a finding that the pupil committed the act. The bill would require that the expelled pupil be referred to a specified program of study. The bill would apply certain of these suspension, expulsion, and referral requirements to pupils in kindergarten and grades 1 to 6, inclusive upon specified findings. The bill would require the immediate suspension and a recommendation of expulsion of a pupil for possessing, selling or otherwise furnishing a firearm, except as specified, for brandishing a knife, as defined, at another person, or for unlawfully selling a controlled substance, as specified, and would require the governing board to expel that pupil upon a finding that the pupil committed the act. The bill would require that the expelled pupil be referred to a specified program of study. The bill would add possession of an imitation firearm to those acts for which the governing board is authorized to expel a pupil. The bill would make conforming changes to related provisions of law pertaining to pupils with exceptional needs. By increasing the circumstances when suspensions and expulsions are required, this provision would impose a state-mandated local program.~~

~~(6)~~

(9) Existing law prohibits a pupil expelled from school for an act listed in (A) through (D), *inclusive, of paragraph (1) above* from enrolling in any other school or school district during the period of expulsion unless it is a community or juvenile court school.

This bill would apply this prohibition also to a pupil expelled from school for possessing, selling, or furnishing a firearm, ~~for causing harm to, or threatening harm to, another person with a knife, as defined,~~ *brandishing a knife at another person,* or for unlawfully selling a controlled substance, as specified, and would include a designated program of study to the alternatives available to these pupils.



~~(7)~~

~~(10) Under existing law, an expulsion order of a pupil remains in effect until the governing board of a school district orders the readmission of the pupil according to specified circumstances. Existing law expressly authorizes the governing board of a school district to recommend a plan of rehabilitation.~~

This bill would authorize, if the expulsion is for specified acts, a pupil to apply for readmission not earlier than the last day of the semester following the semester in which the expulsion occurred. ~~The bill would require the governing board of the school district to recommend a plan of rehabilitation for the pupil, as specified, thereby imposing a state-mandated local program.~~

~~(8)~~

~~(11) Existing law expresses the intent of the Legislature that a governing board request that the county board of education enroll, in its community school, a pupil expelled for possession of a firearm at school.~~

~~This bill would repeal this provision.~~

~~(12) Existing law requires written notice of a governing board's decision to expel a pupil to be given to the pupil or the pupil's parent or guardian, accompanied by a notice of the right to appeal, as specified.~~

This bill would also require the pupil, or the parent or guardian of the pupil, to receive notice of the education alternatives available to the pupil during the time of expulsion.

To the extent that these requirements would impose additional duties on governing boards of school districts, the bill would impose a state-mandated local program.

~~(9) Existing law provides that pupils may be suspended or expelled for specified reasons and requires certain procedures to be followed if a pupil is to be suspended or expelled. Existing law requires the parent or guardian of a suspended pupil to be given written notice of the suspension and requires a pupil to be given written notice of an expulsion hearing.~~

~~This bill would require the posting, at a schoolsite on a bulletin board that is accessible to all pupils, a notice of the suspension and expulsion policy of the school and the~~



~~governing board of the school district or the county superintendent of schools, as appropriate. This requirement would impose a state-mandated local program.~~

~~(10) This bill would state the intent of the Legislature that specified federal funds be used to offset any costs to school districts imposed by Section 5 of the bill.~~

(13) Existing law requires a school district to inform the teacher of every pupil who has engaged in, or is reasonably suspected to have engaged in, any of several specified acts that subject the pupil to suspension or expulsion. The reporting period, relative to be reported, the information commenced in the 1990-91 school year with reporting for that year to include only the previous school year. Reporting for the 1991-92 school year required information from the previous 2 school years. Under existing law, reporting for the 1992-93 school year and each school year thereafter, is from the previous 3 school years.

This bill would require that for the 1994-95 school year the information provided is to be from the previous school year, for the 1995-96 school year the information provided is to be from the previous 2 school years, and for the 1996-97 school year, and each school year thereafter, the information is to be provided from the previous 3 school years.

(14) This bill would provide that it shall be implemented only to the extent that funding is made available by the Legislature during the 1995-96 fiscal year for the purposes of this bill from a \$10,000,000 augmentation for the estimated half-year costs of the Governor's "zero tolerance policy," as included in the Governor's Budget.

~~(11)~~

~~(15) This bill would not become operative only if SB 966 of the 1995-96 Regular Session is enacted and becomes operative on or before January 1, 1996 passed by the Legislature.~~

~~(12)~~

(16) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$1,000,000 statewide and other



procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1980 of the Education Code is~~
2 ~~amended to read:~~
3 ~~1980. A county board of education may establish and~~
4 ~~maintain one or more community schools. If a county~~
5 ~~board of education does not establish and maintain one or~~
6 ~~more community schools, the county superintendent of~~
7 ~~schools shall develop a plan with the governing boards of~~
8 ~~the school districts in that county to ensure that pupils in~~
9 ~~the county who need an alternative school placement are~~
10 ~~served.~~

11 ~~SEC. 2.—~~

12 *SECTION 1. This act shall be known and may be cited*
13 *as the Johnston-Allen Zero Tolerance Act of 1995.*

14 *SEC. 2.* Section 1981 of the Education Code is
15 amended to read:

16 1981. The county board of education may enroll in
17 community schools any of the following:

18 (a) Pupils who have been expelled from a school
19 district for any reason other than those specified in
20 subdivision (a) or (c) of Section 48915.

21 (b) Pupils who have been referred to county
22 community schools by a school district as a result of the
23 recommendation by a school attendance review board or
24 pupils whose school districts of attendance have, at the
25 request of the pupil's parent or guardian, approved the
26 pupil's enrollment in a county community school.

27 (c) Pupils who are probation-referred pursuant to
28 Sections 300, 601, 602, and 654 of the Welfare and
29 Institutions Code, pupils who are on probation or parole



1 and who are not in attendance in any school, or pupils
2 who are expelled for any of the reasons specified in
3 subdivision (a) or (c) of Section 48915.

4 (d) Homeless children.

5 ~~SEC. 3. Section 1982.5 of the Education Code is~~
6 ~~repealed.~~

7 ~~SEC. 4.—~~

8 *SEC. 3. Section 1982.3 is added to the Education*
9 *Code, to read:*

10 *1982.3. Any amounts received by a county*
11 *superintendent of schools for revenue limit purposes that*
12 *are derived from the average daily attendance generated*
13 *by pupils enrolled in a community school shall be*
14 *expended only for community school purposes.*

15 *SEC. 4. Section 1983.5 of the Education Code is*
16 *amended to read:*

17 1983.5. (a) Notwithstanding any other provision of
18 law, community school apportionments may be claimed
19 for pupils enrolled in kindergarten and grades 1 to 6,
20 inclusive, who have been expelled from a school district,
21 and for pupils in grades 7 to 12, inclusive.

22 (b) Notwithstanding any other provision of law,
23 apportionments claimed by a county office of education
24 for units of average daily attendance for pupils enrolled
25 pursuant to subdivision (c) of Section 1981 in excess of the
26 number claimed by that county office in the 1991–92 fiscal
27 year shall be funded at the statewide average revenue
28 limit per unit of average daily attendance for that
29 category of enrollment.

30 SEC. 5. Article 3.5 (commencing with Section 32225)
31 is added to Chapter 2 of Part 19 of the Education Code,
32 to read:

33

34 Article 3.5. Communication Devices in Classrooms

35

36 32225. It is the intent of the Legislature that the
37 governing board of each school district and each county
38 superintendent of schools equip schools with two-way
39 communication devices to be installed in each classroom
40 used by pupils in kindergarten and grades 1 to 12,



1 inclusive, that is not currently so equipped. For the
2 purposes of this section, classroom includes portable
3 classrooms. The communication devices shall be for the
4 use of teachers or other employees or agents of the school
5 in the event of a medical emergency or violent crime in
6 the classroom.

7 32226. As used in this article, “two-way
8 communication devices” include, but are not necessarily
9 limited to, telephones, intercoms, walkie-talkies, or
10 portable radios.

11 ~~SEC. 6. Section 48915 of the Education Code is~~
12 ~~amended to read:~~

13 ~~48915. (a) Except as provided in subdivision (c), the~~
14 ~~principal or the superintendent of schools shall~~
15 ~~recommend the expulsion of a pupil for any of the~~
16 ~~following acts committed at school or at a school activity~~
17 ~~off school grounds, unless the principal or superintendent~~
18 ~~finds, and so reports in writing to the governing board,~~
19 ~~that expulsion is inappropriate, due to the particular~~
20 ~~circumstance, which finding shall be set out in the report~~
21 ~~of the incident:~~

22 ~~(1) Causing serious physical injury to another person;~~
23 ~~except in self-defense.~~

24 ~~(2) Possession of any knife, explosive, or other~~
25 ~~dangerous object of no reasonable use to the pupil.~~

26 ~~(3) Unlawful possession of any controlled substance~~
27 ~~listed in Chapter 2 (commencing with Section 11053) of~~
28 ~~Division 10 of the Health and Safety Code, except for the~~
29 ~~first offense for the possession of not more than one~~
30 ~~avoirdupois ounce of marijuana, other than concentrated~~
31 ~~cannabis.~~

32 ~~(4) Robbery or extortion.~~

33 ~~(b) Upon recommendation by the principal,~~
34 ~~superintendent of schools, or by a hearing officer or~~
35 ~~administrative panel appointed pursuant to subdivision~~
36 ~~(d) of Section 48918, the governing board may order a~~
37 ~~pupil expelled upon finding that the pupil committed an~~
38 ~~act listed in subdivision (a), or in subdivision (a), (b), (c),~~
39 ~~(d), or (e) of Section 48900. A decision to expel shall be~~
40 ~~based on a finding of one or both of the following:~~



- 1 ~~(1) Other means of correction are not feasible or have~~
2 ~~repeatedly failed to bring about proper conduct.~~
- 3 ~~(2) Due to the nature of the act, the presence of the~~
4 ~~pupil causes a continuing danger to the physical safety of~~
5 ~~the pupil or others.~~
- 6 ~~(e) With respect to a pupil in any of grades 7 to 12,~~
7 ~~inclusive, the principal or superintendent of schools shall~~
8 ~~immediately suspend, pursuant to Section 48911, and shall~~
9 ~~recommend expulsion of a pupil that he or she~~
10 ~~determines has committed any of the following acts at~~
11 ~~school or at a school activity off school grounds:~~
- 12 ~~(1) Possessing, selling, or otherwise furnishing a~~
13 ~~firearm. This subdivision does not apply to an act of~~
14 ~~possessing a firearm if the pupil had obtained prior~~
15 ~~written permission to possess the firearm from a~~
16 ~~certificated school employee, which is concurred in by~~
17 ~~the principal. This subdivision applies to an act of~~
18 ~~possessing a firearm only if the possession is verified by an~~
19 ~~employee of a school district.~~
- 20 ~~(2) Causing harm to, or threatening to harm, another~~
21 ~~person with a knife.~~
- 22 ~~(3) Unlawfully selling a controlled substance listed in~~
23 ~~Chapter 2 (commencing with Section 11053) of Division~~
24 ~~10 of the Health and Safety Code.~~
- 25 ~~(d) With respect to a pupil in any of grades 7 to 12,~~
26 ~~inclusive, who has been suspended pursuant to~~
27 ~~subdivision (e), the governing board shall order the pupil~~
28 ~~expelled upon finding that the pupil committed an act~~
29 ~~listed in subdivision (e), unless the governing board finds~~
30 ~~that expulsion is inappropriate, and shall refer that pupil~~
31 ~~to a program of study that meets all of the following~~
32 ~~conditions:~~
- 33 ~~(1) Is appropriately prepared to accommodate pupils~~
34 ~~who exhibit discipline problems.~~
- 35 ~~(2) Is not provided at a comprehensive middle, junior,~~
36 ~~or senior high school, or at an elementary school.~~
- 37 ~~(3) Is not housed at the schoolsite attended by the~~
38 ~~pupil at the time of suspension.~~
- 39 ~~(e) Notwithstanding paragraph (2) of subdivision (d),~~
40 ~~if the county superintendent of schools certifies that an~~



1 ~~alternate program of study is not available at a site away~~
2 ~~from a comprehensive middle, junior, or senior high~~
3 ~~school, or another elementary school and that the only~~
4 ~~option for placement is at another comprehensive~~
5 ~~middle, junior, or senior high school, or another~~
6 ~~elementary school, the pupil may be referred to a~~
7 ~~program of study that is provided at a comprehensive~~
8 ~~middle, junior, or senior high school, or at an elementary~~
9 ~~school.~~

10 ~~(f) The provisions of paragraph (1) of subdivision (e)~~
11 ~~and subdivision (d) also apply to a pupil in kindergarten~~
12 ~~or any of grades 1 to 6, inclusive.~~

13 ~~(g) Upon recommendation by the principal,~~
14 ~~superintendent of schools, or by a hearing officer or~~
15 ~~administrative panel appointed pursuant to subdivision~~
16 ~~(d) of Section 48918, the governing board may order a~~
17 ~~pupil expelled upon finding that the pupil, at school or at~~
18 ~~a school activity off school grounds, violated subdivision~~
19 ~~(f), (g), (h), (i), (j), (k), or (l) of Section 48900, or~~
20 ~~Section 48900.2 or 48900.3, and either of the following:~~

21 ~~(1) That other means of correction are not feasible or~~
22 ~~have repeatedly failed to bring about proper conduct.~~

23 ~~(2) That due to the nature of the violation, the~~
24 ~~presence of the pupil causes a continuing danger to the~~
25 ~~physical safety of the pupil or others.~~

26 ~~(h) The governing board shall refer a pupil who has~~
27 ~~been expelled pursuant to subdivision (b) or (g) to a~~
28 ~~program of study that meets all of the conditions specified~~
29 ~~in subdivision (d).~~

30 ~~(i) If a pupil in kindergarten or any of grades 1 to 3,~~
31 ~~inclusive, is expelled, the expulsion is suspended unless~~
32 ~~the pupil is placed in an age appropriate alternative~~
33 ~~education program.~~

34 ~~(j) As used in this section, "knife" means any dirk,~~
35 ~~dagger, or other weapon with a fixed, sharpened blade~~
36 ~~fitted primarily for stabbing, a weapon with a blade~~
37 ~~longer than 3 1/2 inches, a folding knife with a blade that~~
38 ~~locks into place, or a razor with an unguarded blade.~~

39 ~~SEC. 7.—~~



1 *SEC. 6. Section 42238.18 of the Education Code is*
2 *amended to read:*

3 42238.18. (a) Notwithstanding any other provision of
4 law, only those pupils enrolled in county office of
5 education programs while detained in a juvenile hall,
6 juvenile home, day center, juvenile ranch, juvenile camp,
7 or regional youth educational facility established
8 pursuant to Article 14 (commencing with Section 850),
9 Article 15 (commencing with Section 880), and Article
10 24.5 (commencing with Section 894) of Chapter 2 of
11 Division 2 of the Welfare and Institutions Code shall be
12 counted as juvenile court school pupils. For purposes of
13 apportionments, those pupils in any group home housing
14 25 or more children placed pursuant to Sections 362, 727,
15 and 730 of the Welfare and Institutions Code or in any
16 group home housing 25 or more children and operating
17 one or more additional sites under a central
18 administration for children placed pursuant to Section
19 362, 727, or 730 of the Welfare and Institutions Code shall
20 be reported as county group home and institutions pupils
21 to the Superintendent of Public Instruction and shall be
22 counted as juvenile court school pupils for purposes of
23 apportionments.

24 (b) Notwithstanding any other provision of law, any
25 county superintendent of schools operating juvenile
26 court schools, county group home and institutions schools,
27 or community schools, or any combination of these
28 schools shall maintain an account in their general fund to
29 be known as the juvenile court and community school
30 account, and shall deposit all funds derived from the
31 operation of juvenile court, county group home and
32 institutions schools, and community schools into that
33 account. Expenditures from the juvenile court and
34 community school account shall be limited to the
35 following:

36 (1) Those expenditures defined as direct costs of
37 instructional programs by the California State School
38 Accounting Manual.

39 (2) Expenditures that are defined as documented
40 direct support costs by the California State School



1 Accounting Manual, however, costs charged for
2 probation officers shall be limited to not more than the
3 number of full-time equivalent probation officers paid for
4 by the county office of education during the 1988-89 fiscal
5 year.

6 (3) Expenditures that are defined as allocated direct
7 support costs by the California State School Accounting
8 Manual.

9 (4) Other expenditures for support and indirect
10 charges. However, these charges may not exceed 10
11 percent of the sum of the expenditures in paragraphs (1),
12 (2), and (3).

13 Expenditures that represent contract payments to
14 other agencies for the operation of juvenile court and
15 community school programs shall be included in the
16 juvenile court and community school account and the
17 contract costs distributed to the cost categories defined in
18 paragraphs (1), (2), (3), and (4). At the end of any given
19 school year the net ending balance in the juvenile court
20 and community school account may be distributed to a
21 reserved account for economic contingencies or to a
22 reserved account for capital outlay, provided that the
23 combined total transferred does not exceed 15 percent of
24 the previous year's authorized expenditures as specified
25 above and also provided that funds placed in the reserved
26 accounts shall only be expended for juvenile court,
27 county group home and institutions, or community school
28 programs. The net ending balance, except for those funds
29 placed in a capital outlay fund, shall not exceed *the*
30 *greater of* 15 percent of the previous year's expenditures
31 *or twenty-five thousand dollars (\$25,000)*. A county may
32 accumulate over a period of two or more given school
33 years a net ending balance in the capital outlay reserved
34 account of more than 15 percent of the previous fiscal
35 year's expenditures under provisions of a resolution of the
36 governing board. Funds in the capital outlay reserve are
37 to be used for capital outlay only. The Superintendent of
38 Public Instruction shall require an annual certification by
39 county superintendents of schools beginning in the
40 1989-90 fiscal year that juvenile court, county group

1 home and institutions, and community school funds have
2 been expended as provided in this section and shall
3 withhold from the subsequent year's apportionment an
4 amount equal to any ending balance in the juvenile court
5 and community school account in excess of the transfers
6 to reserves for economic contingencies and capital outlay
7 as described in this section.

8 (c) Notwithstanding any other provision of law, only
9 pupils, except those permitted pursuant to subdivisions
10 (a), (b), and (d) of Section 1981, who are referred by the
11 county probation department under Section 601 or 654 of
12 the Welfare and Institutions Code, after an individualized
13 review and certification of the appropriateness of
14 enrollment in the county group home and institution's
15 school or county community school, shall be enrolled and
16 eligible for apportionments in county community schools.
17 The individualized review shall include representatives
18 of the court, the county department of education, the
19 county probation department, and either the school
20 district of residence or, in cases in which the pupil resides
21 in a group home or institution, the school district in which
22 the group home or institution is located, and, in each case,
23 the school district representative shall agree to the
24 appropriateness of the proposed placement and pupils so
25 placed shall have a probation officer assigned to their
26 case.

27 *SEC. 7. Section 48900 of the Education Code is*
28 *amended to read:*

29 48900. A pupil ~~shall~~ *may* not be suspended from school
30 or recommended for expulsion unless the superintendent
31 or the principal of the school in which the pupil is enrolled
32 determines that the pupil has:

33 (a) Caused, attempted to cause, or threatened to cause
34 physical injury to another person.

35 (b) Possessed, sold, or otherwise furnished any
36 firearm, knife, explosive, or other dangerous object
37 unless, in the case of possession of any object of this type,
38 the pupil had obtained written permission to possess the
39 item from a certificated school employee, which is



1 concurred in by the principal or the designee of the
2 principal.

3 (c) Unlawfully possessed, used, sold, or otherwise
4 furnished, or been under the influence of, any controlled
5 substance listed in Chapter 2 (commencing with Section
6 11053) of Division 10 of the Health and Safety Code, an
7 alcoholic beverage, or an intoxicant of any kind.

8 (d) Unlawfully offered, arranged, or negotiated to sell
9 any controlled substance listed in Chapter 2
10 (commencing with Section 11053) of Division 10 of the
11 Health and Safety Code, an alcoholic beverage, or an
12 intoxicant of any kind, and then either sold, delivered, or
13 otherwise furnished to any person another liquid,
14 substance, or material and represented the liquid,
15 substance, or material as a controlled substance, alcoholic
16 beverage, or intoxicant.

17 (e) Committed or attempted to commit robbery or
18 extortion.

19 (f) Caused or attempted to cause damage to school
20 property or private property.

21 (g) Stolen or attempted to steal school property or
22 private property.

23 (h) Possessed or used tobacco, or any products
24 containing tobacco or nicotine products, including, but
25 not limited to, cigarettes, cigars, miniature cigars, clove
26 cigarettes, smokeless tobacco, snuff, chew packets, and
27 betel. However, this section does not prohibit use or
28 possession by a pupil of his or her own prescription
29 products.

30 (i) Committed an obscene act or engaged in habitual
31 profanity or vulgarity.

32 (j) ~~Had unlawful possession of,~~ *Unlawfully possessed*
33 or unlawfully offered, arranged, or negotiated to sell any
34 drug paraphernalia, as defined in Section 11014.5 of the
35 Health and Safety Code.

36 (k) Disrupted school activities or otherwise willfully
37 defied the valid authority of supervisors, teachers,
38 administrators, school officials, or other school personnel
39 engaged in the performance of their duties.



1 (l) Knowingly received stolen school property or
2 private property.

3 (m) *Possessed an imitation firearm. As used in this*
4 *section, “imitation firearm” means a replica of a firearm*
5 *that is so substantially similar in physical properties to an*
6 *existing firearm as to lead a reasonable person to conclude*
7 *that the replica is a firearm.*

8 ~~No~~

9 A pupil ~~shall~~ *may not* be suspended or expelled for any
10 of the acts enumerated unless that act is related to school
11 activity or school attendance occurring within a school
12 under the jurisdiction of the superintendent or principal
13 or occurring within any other school district. A pupil may
14 be suspended or expelled for acts that are enumerated in
15 this section and related to school activity or attendance
16 that occur at any time, including, but not limited to, any
17 of the following:

- 18 (1) While on school grounds.
- 19 (2) While going to or coming from school.
- 20 (3) During the lunch period whether on or off the
21 campus.
- 22 (4) During, or while going to or coming from, a school
23 sponsored activity.

24 It is the intent of the Legislature that alternatives to
25 suspensions or expulsion be imposed against any pupil
26 who is truant, tardy, or otherwise absent from school
27 activities.

28 *SEC. 8. Section 48900.6 of the Education Code is*
29 *amended to read:*

30 48900.6. Instead of disciplinary action prescribed by
31 this article, the principal of a school, the principal’s
32 designee, or the superintendent of schools, ~~at his or her~~
33 ~~discretion,~~ *or the governing board* may require a pupil to
34 perform community service on school grounds during
35 nonschool hours. For the purposes of this section
36 “community service” may include, but is not limited to,
37 work performed on school grounds in the areas of outdoor
38 beautification, campus betterment, and teacher or peer
39 assistance programs. This section ~~shall~~ *does* not apply to



1 ~~instances where if~~ suspension or expulsion is required by
2 this article.

3 *SEC. 9. Section 48915 of the Education Code is*
4 *amended to read:*

5 48915. (a) ~~The~~ *Except as provided in subdivisions (c)*
6 *and (e), the principal or the superintendent of schools*
7 *shall recommend a pupil's the expulsion of a pupil for any*
8 *of the following acts committed at school or at a school*
9 *activity off school grounds, unless the principal or*
10 *superintendent finds, and so reports in writing to the*
11 *governing board, that expulsion is inappropriate, due to*
12 *the particular circumstance, which shall be set out in the*
13 *report of the incident:*

14 (1) Causing serious physical injury to another person,
15 except in self-defense.

16 (2) Possession of any knife, explosive, or other
17 dangerous object of no reasonable use to the pupil at
18 school or at a school activity off school grounds.

19 (3) Unlawful ~~sale~~ *possession* of any controlled
20 substance listed in Chapter 2 (commencing with Section
21 11053) of Division 10 of the Health and Safety Code,
22 except for the first offense for the ~~sale~~ *possession* of not
23 more than one avoirdupois ounce of marijuana, other
24 than concentrated cannabis.

25 (4) Robbery or extortion.

26 (b) ~~The principal or the superintendent of schools~~
27 ~~shall immediately suspend, pursuant to Section 48911, any~~
28 ~~pupil found to be in possession of a firearm at school or at~~
29 ~~a school activity off school grounds and shall recommend~~
30 ~~expulsion of that pupil to the governing board. The~~
31 ~~governing board shall expel that pupil or refer that pupil~~
32 ~~to a program of study that is appropriately prepared to~~
33 ~~accommodate students who exhibit discipline problems~~
34 ~~and is not provided at a comprehensive middle, junior, or~~
35 ~~senior high school or housed at the schoolsite attended by~~
36 ~~the pupil at the time the expulsion was recommended to~~
37 ~~the school board, whenever the principal or~~
38 ~~superintendent of schools and the governing board~~
39 ~~confirm the following:~~



1 ~~(1) The pupil was in knowing possession of the~~
 2 ~~firearm.~~

3 ~~(2) An employee of the school district verifies the~~
 4 ~~pupil's possession of the firearm.~~

5 ~~(e) Upon recommendation by the principal,~~
 6 ~~superintendent of schools, or by a hearing officer or~~
 7 ~~administrative panel appointed pursuant to subdivision~~
 8 ~~(d) of Section 48918, the governing board may order a~~
 9 ~~pupil expelled upon finding that the pupil violated~~
 10 ~~committed an act listed in subdivision (a) or in~~
 11 ~~subdivision (a), (b), (c), (d), or (e) of Section 48900;~~
 12 ~~except that a pupil found in possession of a firearm shall~~
 13 ~~be expelled or referred to another school as specified in~~
 14 ~~subdivision (b). A decision to expel shall be based on a~~
 15 ~~finding of one or both of the following:~~

16 ~~(d)~~

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

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

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

27 *(1) Possessing, selling, or otherwise furnishing a*
 28 *firearm. This subdivision does not apply to an act of*
 29 *possessing a firearm if the pupil had obtained prior*
 30 *written permission to possess the firearm from a*
 31 *certificated school employee, which is concurred in by*
 32 *the principal or the designee of the principal. This*
 33 *subdivision applies to an act of possessing a firearm only*
 34 *if the possession is verified by an employee of a school*
 35 *district.*

36 *(2) Brandishing a knife at another person.*

37 *(3) Unlawfully selling a controlled substance listed in*
 38 *Chapter 2 (commencing with Section 11053) of Division*
 39 *10 of the Health and Safety Code.*



1 (d) *The governing board shall order a pupil expelled*
2 *upon finding that the pupil committed an act listed in*
3 *subdivision (c), and shall refer that pupil to a program of*
4 *study that meets all of the following conditions:*

5 (1) *Is appropriately prepared to accommodate pupils*
6 *who exhibit discipline problems.*

7 (2) *Is not provided at a comprehensive middle, junior,*
8 *or senior high school, or at any elementary school.*

9 (3) *Is not housed at the schoolsite attended by the*
10 *pupil at the time of suspension.*

11 (e) Upon recommendation by the principal,
12 superintendent of schools, or by a hearing officer or
13 administrative panel appointed pursuant to subdivision
14 (d) of Section 48918, the governing board may order a
15 pupil expelled upon finding that the pupil, *at school or at*
16 *a school activity off of school grounds* violated subdivision
17 (f), (g), (h), (i), (j), (k), ~~(l)~~, or (m), of Section 48900,
18 or Section 48900.2 or 48900.3, and either of the following:

19 (1) That other means of correction are not feasible or
20 have repeatedly failed to bring about proper conduct.

21 (2) That due to the nature of the violation, the
22 presence of the pupil causes a continuing danger to the
23 physical safety of the pupil or others.

24 (f) *The governing board shall refer a pupil who has*
25 *been expelled pursuant to subdivision (b) or (e) to a*
26 *program of study that meets all of the conditions specified*
27 *in subdivision (d). Notwithstanding this subdivision, with*
28 *respect to a pupil expelled pursuant to subdivision (e), if*
29 *the county superintendent of schools certifies that an*
30 *alternative program of study is not available at a site away*
31 *from a comprehensive middle, junior, or senior high*
32 *school, or an elementary school, and that the only option*
33 *for placement is at another comprehensive middle,*
34 *junior, or senior high school, or another elementary*
35 *school, the pupil may be referred to a program of study*
36 *that is provided at a comprehensive middle, junior, or*
37 *senior high school, or at an elementary school.*

38 (g) *As used in this section, “knife” means any dirk,*
39 *dagger, or other weapon with a fixed, sharpened blade*
40 *fitted primarily for stabbing, a weapon with a blade fitted*



1 *primarily for stabbing, a weapon with a blade longer*
2 *longer than 3 1/2 inches, a folding knife with a blade that*
3 *locks into place, or a razor with an unguarded blade.*

4 ~~(e) Any pupil who is authorized to be in possession of~~
5 ~~a firearm by a teacher, schoolsite administrator, or~~
6 ~~principal is exempted from the requirements of this~~
7 ~~section.~~

8 *SEC. 10.* Section 48915.2 of the Education Code is
9 amended to read:

10 48915.2. (a) A pupil expelled from school for any of
11 the acts listed in subdivision (a) or (c) of Section 48915
12 shall not be permitted to enroll in any other school or
13 school district during the period of expulsion unless it is
14 a county community school pursuant to subdivision (c) of
15 Section 1981, a juvenile court school, as described in
16 Section 48645.1, or a program of study pursuant to
17 subdivision (d) of Section 48915.

18 (b) After a determination has been made, pursuant to
19 a hearing under Section 48918, that an individual expelled
20 from another school district for any act described in
21 subdivision (a) or (c) of Section 48915 does not pose a
22 danger to either the pupils or employees of the school
23 district, the governing board of a school district may
24 permit the individual to enroll in the school district after
25 the term of expulsion, subject to one of the following
26 conditions:

27 (1) He or she has established legal residence in the
28 school district, pursuant to Section 48200.

29 (2) He or she is enrolled in the school pursuant to an
30 interdistrict agreement executed between the affected
31 school districts pursuant to Chapter 5 (commencing with
32 Section 46600) of Part 26 or pursuant to Article 1.5
33 (commencing with Section 48209) of Chapter 2 of Part 27.

34 ~~SEC. 8.~~

35 *SEC. 11.* Section 48915.5 of the Education Code is
36 amended to read:

37 48915.5. (a) In a matter involving a pupil with
38 previously identified exceptional needs who is currently
39 enrolled in a special education program, the governing
40 board may order the pupil expelled pursuant to



1 subdivision (b) or (d) of Section 48915 only if all of the
2 following conditions are met:

3 (1) An individualized education program team
4 meeting is held and conducted pursuant to Article 3
5 (commencing with Section 56340) of Chapter 2 of Part 30.

6 (2) The team determines that the misconduct was not
7 caused by, or was not a direct manifestation of, the pupil's
8 identified disability.

9 (3) The team determines that the pupil had been
10 appropriately placed at the time the misconduct
11 occurred.

12 The term "pupil with previously identified exceptional
13 needs," as used in this section, means a pupil who meets
14 the requirements of Section 56026 and who, at the time
15 the alleged misconduct occurred, was enrolled in a
16 special education program, including enrollment in
17 nonpublic schools pursuant to Section 56365 and state
18 special schools.

19 (b) For purposes of this section, all applicable
20 procedural safeguards prescribed by federal and state law
21 and regulations apply to proceedings to expel pupils with
22 previously identified exceptional needs, except that,
23 notwithstanding Section 56321, subdivision (e) of Section
24 56506, or any other provision of law, parental consent is
25 not required prior to conducting a preexpulsion
26 educational assessment pursuant to subdivision (e), or as
27 a condition of the final decision of the local board to expel.

28 (c) Each local educational agency, pursuant to the
29 requirements of Section 56221, shall develop procedures
30 and timelines governing expulsion procedures for
31 individuals with exceptional needs.

32 (d) The parent of each pupil with previously
33 identified exceptional needs has the right to participate
34 in the individualized education program team meeting
35 conducted pursuant to subdivision (a) preceding the
36 commencement of expulsion proceedings, following the
37 completion of a preexpulsion assessment pursuant to
38 subdivision (e), through actual participation,
39 representation, or a telephone conference call. The
40 meeting shall be held at a time and place mutually



1 convenient to the parent and local educational agency
2 within the period, if any, of the pupil's preexpulsion
3 suspension. A telephone conference call may be
4 substituted for the meeting. Each parent shall be notified
5 of his or her right to participate in the meeting at least 48
6 hours prior to the meeting. Unless a parent has requested
7 a postponement, the meeting may be conducted without
8 the parent's participation, if the notice required by this
9 subdivision has been provided. The notice shall specify
10 that the meeting may be held without the parent's
11 participation, unless the parent requests a postponement
12 for up to three additional schooldays pursuant to this
13 subdivision. Each parent may request that the meeting be
14 postponed for up to three additional schooldays. If a
15 postponement has been granted, the local educational
16 agency may extend any suspension of a pupil for the
17 period of postponement if the pupil continues to pose an
18 immediate threat to the safety of himself, herself, or
19 others and the local educational agency notifies the
20 parent that the suspension will be continued during the
21 postponement. However, the suspension shall not be
22 extended beyond 10 consecutive schooldays unless
23 agreed to by the parent, or by a court order. If a parent
24 who has received proper notice of the meeting refuses to
25 consent to an extension beyond 10 consecutive schooldays
26 and chooses not to participate, the meeting may be
27 conducted without the parent's participation.

28 (e) In determining whether a pupil should be
29 expelled, the individualized education program team
30 shall base its decision on the results of a preexpulsion
31 educational assessment conducted in accordance with
32 the guidelines of Section 104.35 of Title 34 of the Code of
33 Federal Regulations, which shall include a review of the
34 appropriateness of the pupil's placement at the time of
35 the alleged misconduct, and a determination of the
36 relationship, if any, between the pupil's behavior and his
37 or her disability.

38 In addition to the preexpulsion educational assessment
39 results, the individualized education program team shall
40 also review and consider the pupil's health records and



1 school discipline records. The parent, pursuant to Section
2 300.504 of Title 34 of the Code of Federal Regulations, is
3 entitled to written notice of the local educational
4 agency's intent to conduct a preexpulsion assessment.
5 The parent shall make the pupil available for the
6 assessment at a site designated by the local educational
7 agency without delay. The parent's right to an
8 independent assessment under Section 56329 applies
9 despite the fact that the pupil has been referred for
10 expulsion.

11 (f) If the individualized education program team
12 determines that the alleged misconduct was not caused
13 by, or a direct manifestation of, the pupil's disability, and
14 if it is determined that the pupil was appropriately
15 placed, the pupil shall be subject to the applicable
16 disciplinary actions and procedures prescribed under this
17 article.

18 (g) The parent of each pupil with previously identified
19 exceptional needs has the right to a due process hearing
20 conducted pursuant to Section 1415 of Title 20 of the
21 United States Code if the parent disagrees with the
22 decision of the individualized education program team
23 made pursuant to subdivision (f), or if the parent
24 disagrees with the decision to rely upon information
25 obtained, or proposed to be obtained, pursuant to
26 subdivision (e).

27 (h) No expulsion hearing shall be conducted for an
28 individual with exceptional needs until all of the
29 following have occurred:

- 30 (1) A preexpulsion assessment is conducted.
- 31 (2) The individualized education program team
32 meets pursuant to subdivision (a).
- 33 (3) Due process hearings and appeals, if initiated
34 pursuant to Section 1415 of Title 20 of the United States
35 Code, are completed.
- 36 (i) Pursuant to subdivision (a) of Section 48918, the
37 statutory times prescribed for expulsion proceedings for
38 individuals with exceptional needs shall commence after
39 the completion of paragraphs (1), (2), and (3) in
40 subdivision (h).



1 (j) If an individual with exceptional needs is excluded
2 from schoolbus transportation, the pupil is entitled to be
3 provided with an alternative form of transportation at no
4 cost to the pupil or parent.

5 ~~SEC. 9.~~

6 *SEC. 12.* Section 48915.7 of the Education Code is
7 repealed.

8 ~~SEC. 10.~~

9 *SEC. 13.* Section 48916 of the Education Code is
10 amended to read:

11 48916. An expulsion order remains in effect until the
12 governing board, in the manner prescribed in this article,
13 orders the readmission of a pupil. At the time an expulsion
14 of a pupil for an act other than those listed in subdivision
15 (c) of Section 48915 is ordered, the governing board shall
16 set a date, not later than the last day of the semester
17 following the semester in which the expulsion occurred,
18 when the pupil may apply for readmission to a school
19 maintained by the district. A pupil expelled pursuant to
20 subdivision (d) of Section 48915 may apply for
21 readmission not earlier than the last day of the semester
22 following the semester in which the expulsion occurred.

23 The governing board ~~shall~~ *may* recommend a plan of
24 rehabilitation for the pupil, which may include, but not
25 be limited to, periodic review as well as assessment at the
26 time of application for readmission. The plan may also
27 include recommendations for counseling, employment,
28 community service, or other rehabilitative programs.

29 The governing board of each school district shall adopt
30 rules and regulations establishing a procedure for the
31 filing and processing of requests for readmission. Upon
32 completion of the readmission process, the governing
33 ~~board shall readmit the pupil unless the board makes a~~
34 ~~finding that the pupil has not met the conditions of the~~
35 ~~rehabilitation plan or continues to cause danger to the~~
36 ~~physical safety of the pupil or others~~ *board shall not be*
37 *required to readmit the pupil.* A description of the
38 procedure shall be made available to the pupil and the
39 pupil's parent or guardian at the time the expulsion order
40 is entered.



1 ~~SEC. 11.~~

2 *SEC. 14.* Section 48918 of the Education Code is
3 amended to read:

4 48918. The governing board of each school district
5 shall establish rules and regulations governing
6 procedures for the expulsion of pupils. These procedures
7 shall include, but are not necessarily limited to, all of the
8 following:

9 (a) The pupil shall be entitled to a hearing to
10 determine whether the pupil should be expelled. An
11 expulsion hearing shall be held within 30 schooldays after
12 the date the principal or the superintendent of schools
13 determines that the pupil has committed any of the acts
14 enumerated in Section 48900, unless the pupil requests, in
15 writing, that the hearing be postponed. The adopted rules
16 and regulations shall ~~specify that the pupil is~~ *require that*
17 *the pupil be* entitled to at least one postponement of an
18 expulsion hearing, which postponement shall be for a
19 period of not more than 30 calendar days. Thereafter, any
20 additional postponement may be granted at the
21 discretion of the governing board.

22 Within 10 schooldays following the conclusion of the
23 hearing, the governing board shall decide whether to
24 expel the pupil, unless the pupil requests in writing that
25 the decision be postponed. If the hearing is held by a
26 hearing officer or an administrative panel, or if the
27 district governing board does not meet on a weekly basis,
28 the governing board shall decide whether to expel the
29 pupil within 40 schooldays after the date of the pupil's
30 removal from his or her school of attendance for the
31 incident for which the recommendation for expulsion is
32 made by the principal or the superintendent, unless the
33 pupil requests in writing that the decision be postponed.

34 If compliance by the governing board with the time
35 requirements for the conducting of an expulsion hearing
36 under this subdivision is impracticable, the
37 superintendent of schools or the superintendent's
38 designee may, for good cause, extend the time period for
39 the holding of the expulsion hearing for an additional five
40 schooldays. Reasons for the extension of the time for the



1 hearing shall be included as a part of the record at the
2 time the expulsion hearing is conducted. Upon the
3 commencement of the hearing, all matters shall be
4 pursued and conducted with reasonable diligence and
5 shall be concluded without any unnecessary delay.

6 (b) Written notice of the hearing shall be forwarded
7 to the pupil at least 10 calendar days prior to the date of
8 the hearing. The notice shall include all of the following:

9 (1) The date and place of the hearing.

10 (2) A statement of the specific facts and charges upon
11 which the proposed expulsion is based.

12 (3) A copy of the disciplinary rules of the district that
13 relate to the alleged violation.

14 (4) Notice of the parent, guardian, or pupil's obligation
15 pursuant to subdivision (b) of Section 48915.1.

16 (5) Notice of the opportunity for the pupil or the
17 pupil's parent or guardian to appear in person or employ
18 and be represented by counsel, to inspect and obtain
19 copies of all documents to be used at the hearing, to
20 confront and question all witnesses who testify at the
21 hearing, to question all other evidence presented, and to
22 present oral and documentary evidence on the pupil's
23 behalf, including witnesses.

24 (c) Notwithstanding Section 54593 of the Government
25 Code and Section 35145, the governing board shall
26 conduct a hearing to consider the expulsion of a pupil in
27 a session closed to the public, unless the pupil requests, in
28 writing, at least five days prior to the date of the hearing,
29 that the hearing be conducted at a public meeting.
30 Regardless of whether the expulsion hearing is conducted
31 in a closed or public session, the governing board may
32 meet in closed session for the purpose of deliberating and
33 determining whether the pupil should be expelled.

34 If the governing board or the hearing officer or
35 administrative panel appointed under subdivision (d) to
36 conduct the hearing admits any other person to a closed
37 deliberation session, the parent or guardian of the pupil,
38 the pupil, and the counsel of the pupil also shall be
39 allowed to attend the closed deliberations.



1 (d) In lieu of conducting an expulsion hearing itself,
2 the governing board may contract with the county
3 hearing officer, or with the Office of Administrative
4 Hearings of the State of California pursuant to Chapter 14
5 (commencing with Section 27720) of Part 3 of Division 2
6 of Title 3 of the Government Code and Section 35207, for
7 a hearing officer to conduct the hearing. The governing
8 board also may appoint an impartial administrative panel
9 of three or more certificated persons, none of whom is a
10 member of the board or employed on the staff of the
11 school in which the pupil is enrolled. The hearing shall be
12 conducted in accordance with all of the procedures
13 established under this section.

14 (e) Within three schooldays after the hearing, the
15 hearing officer or administrative panel shall determine
16 whether to recommend the expulsion of the pupil to the
17 governing board. If the hearing officer or administrative
18 panel decides not to recommend expulsion, the expulsion
19 proceedings shall be terminated and the pupil
20 immediately shall be reinstated and permitted to return
21 to a classroom instructional program, any other
22 instructional program, a rehabilitation program, or any
23 combination of these programs. Placement in one or
24 more of these programs shall be made by the
25 superintendent of schools or the superintendent's
26 designee after consultation with school district personnel,
27 including the pupil's teachers, and the pupil's parent or
28 guardian. The decision not to recommend expulsion shall
29 be final.

30 (f) If the hearing officer or administrative panel
31 recommends expulsion, findings of fact in support of the
32 recommendation shall be prepared and submitted to the
33 governing board. All findings of fact and
34 recommendations shall be based solely on the evidence
35 adduced at the hearing. If the governing board accepts
36 the recommendation calling for expulsion, acceptance
37 shall be based either upon a review of the findings of fact
38 and recommendations submitted by the hearing officer
39 or panel or upon the results of any supplementary hearing



1 conducted pursuant to this section that the governing
2 board may order.

3 The decision of the governing board to expel a pupil
4 shall be based upon substantial evidence relevant to the
5 charges adduced at the expulsion hearing or hearings.
6 Except as provided in this section, no evidence to expel
7 shall be based solely upon hearsay evidence. The
8 governing board or the hearing officer or administrative
9 panel may, upon a finding that good cause exists,
10 determine that the disclosure of the identity of a witness
11 and the testimony of that witness at the hearing would
12 subject the witness to an unreasonable risk of harm. Upon
13 this determination, the testimony of the witness may be
14 presented at the hearing in the form of sworn
15 declarations which shall be examined only by the
16 governing board or the hearing officer or administrative
17 panel. Copies of these sworn declarations, edited to
18 delete the name and identity of the witness, shall be made
19 available to the pupil.

20 (g) A record of the hearing shall be made. The record
21 may be maintained by any means, including electronic
22 recording, so long as a reasonably accurate and complete
23 written transcription of the proceedings can be made.

24 (h) Technical rules of evidence shall not apply to the
25 hearing, but relevant evidence may be admitted and
26 given probative effect only if it is the kind of evidence
27 upon which reasonable persons are accustomed to rely in
28 the conduct of serious affairs. A decision of the governing
29 board to expel shall be supported by substantial evidence
30 showing that the pupil committed any of the acts
31 enumerated in Section 48900.

32 (i) Whether an expulsion hearing is conducted by the
33 governing board or before a hearing officer or
34 administrative panel, final action to expel a pupil shall be
35 taken only by the governing board in a public session.
36 Written notice of any decision to expel or to suspend the
37 enforcement of an expulsion order during a period of
38 probation shall be sent by the superintendent of schools
39 or his or her designee to the pupil or the pupil's parent or



1 guardian, and shall be accompanied by all of the
2 following:

3 (1) Notice of the right to appeal the expulsion to the
4 county board of education.

5 (2) Notice of the obligation of the parent, guardian, or
6 pupil under subdivision (b) of Section 48915.1, upon the
7 pupil's enrollment in a new school district, to inform that
8 district of the expulsion.

9 (3) A list of the education alternatives available to the
10 pupil during the time of expulsion, so that the pupil's
11 education is disrupted to the least possible extent.

12 (j) The governing board shall maintain a record of
13 each expulsion, including the cause therefor. Records of
14 expulsions are a nonprivileged, disclosable public record.

15 The expulsion order and the causes therefor shall be
16 recorded in the pupil's mandatory interim record and
17 shall be forwarded to any school in which the pupil
18 subsequently enrolls upon receipt of a request from the
19 admitting school for the pupil's school records.

20 ~~SEC. 12. Section 48926 is added to the Education~~
21 ~~Code, to read:~~

22 ~~48926. The principal of a school shall post, on a~~
23 ~~bulletin board at the schoolsite that is accessible to all~~
24 ~~pupils, a notice of the suspension and expulsion policy of~~
25 ~~the school and the governing board of the school district~~
26 ~~or the county superintendent of schools, as appropriate.~~

27 ~~SEC. 13. It is the intent of the Legislature that federal~~
28 ~~funds appropriated to school districts for school safety~~
29 ~~purposes be used to offset any costs to school districts~~
30 ~~imposed by Section 11 of this bill.~~

31 ~~SEC. 14. This act shall become operative only if~~
32 ~~Senate Bill 966 of the 1995-96 Regular Session is enacted~~
33 ~~and becomes operative on or before January 1, 1996.~~

34 ~~SEC. 15.—~~

35 *SEC. 15. Section 49079 of the Education Code is*
36 *amended to read:*

37 49079. (a) A school district shall inform the teacher of
38 each pupil who has engaged in, or is reasonably suspected
39 to have engaged in, any of the acts described in any of the
40 subdivisions, except subdivision (h), of Section 48900. The



1 district shall provide the information to the teacher based
2 upon any records that the district maintains in its
3 ordinary course of business, or receives from a law
4 enforcement agency, regarding a pupil described in this
5 section.

6 (b) ~~No~~ A school district, or school district officer or
7 employee, ~~shall be~~ *is not* civilly or criminally liable for
8 providing information under this section unless it is
9 proven that the information was false and that the district
10 or district officer or employee knew that the information
11 was false, or was made with a reckless disregard for the
12 truth or falsity of the information provided.

13 (c) An officer or employee of a school district who
14 knowingly fails to provide information about a pupil who
15 has engaged in, or who is reasonably suspected to have
16 engaged in, the acts referred to in subdivision (a), is
17 guilty of a misdemeanor, which is punishable by
18 confinement in the county jail for a period not to exceed
19 six months, or by a fine not to exceed one thousand dollars
20 (\$1,000), or both.

21 (d) ~~The reporting period of the information required~~
22 ~~by this section shall commence in the 1990-91 school year.~~
23 ~~For that school year, the information described in~~
24 ~~subdivision (a) shall be from the previous school year. For~~
25 ~~the 1991-92 1994-95 school year, the information~~
26 ~~provided shall be from the previous two school years. For~~
27 ~~the 1992-93 1996-97 school year and each school year~~
28 ~~thereafter, the information provided shall be from the~~
29 ~~previous three school years.~~

30 (e) Any information received by a teacher pursuant to
31 this section shall be received in confidence for the limited
32 purpose for which it was provided and shall not be further
33 disseminated by the teacher.

34 (f) ~~In no event shall this section be retroactively~~
35 ~~applied to any individual for any act of that individual~~
36 ~~undertaken, or failure to act by that individual, prior to~~
37 ~~January 1, 1994.~~

38 *SEC. 16. This act shall be implemented only to the*
39 *extent that funding is made available by the Legislature*
40 *during the 1995-96 fiscal year for the purposes of this act*



1 *from a ten million dollar (\$10,000,000) augmentation for*
2 *the estimated half-year cost of the Governor's "zero*
3 *tolerance policy", as included in the Governor's Budget.*

4 *SEC. 17. This bill shall not become operative if SB 966*
5 *of the 1995-96 Regular Session is passed by the*
6 *Legislature.*

7 *SEC. 18. Notwithstanding Section 17610 of the*
8 *Government Code, if the Commission on State Mandates*
9 *determines that this act contains costs mandated by the*
10 *state, reimbursement to local agencies and school*
11 *districts for those costs shall be made pursuant to Part 7*
12 *(commencing with Section 17500) of Division 4 of Title*
13 *2 of the Government Code. If the statewide cost of the*
14 *claim for reimbursement does not exceed one million*
15 *dollars (\$1,000,000), reimbursement shall be made from*
16 *the State Mandates Claims Fund. Notwithstanding*
17 *Section 17580 of the Government Code, unless otherwise*
18 *specified in this act, the provisions of this act shall become*
19 *operative on the same date that the act takes effect*
20 *pursuant to the California Constitution.*

