

Assembly Bill No. 922

CHAPTER 974

An act to amend Sections 48915.2, 48916, and 48918 of, to add Sections 39141.12, 48916.1, and 48926 to, to add Article 3 (commencing with Section 48660) to Chapter 4 of Part 27 of, and to repeal Section 48915.7 of, the Education Code, relating to pupils, and making an appropriation therefor.

[Approved by Governor October 16, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 922, Friedman. Pupils: expulsion: alternative placement.

(1) Under existing law, known as the Field Act, school facilities are required to meet specified structural safety standards. Existing law provides that, for specified purposes such as the operation of a regional occupational center or a new or expanded pregnant and parenting teen program, buildings that do not meet certain structural safety standards may be used under certain circumstances.

This bill would provide that if the governing board of a school district operates a program for expelled pupils, the board shall either use facilities that meet specified structural requirements, apply for emergency portable classrooms, or enter into a lease for a facility having specified characteristics. The bill would require the board, prior to entering into a lease agreement, to certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to specified structural safety standards. The bill would require each school district to report to the State Allocation Board on the facilities utilized for the operation of these programs and the efforts used to place the program in facilities that meet specified structural safety standards. To the extent the bill would thereby impose new duties upon local education entities, those duties would be a state-mandated local program.

(2) Existing law authorizes county boards of education to establish and maintain one or more community schools and, for that purpose, deems county boards of education to be school districts. Existing law authorizes the enrollment in those schools of certain pupils, including pupils who are expelled from a school district, as specified, pupils who are probation referred, as specified, and homeless children, as defined. Existing law requires the county superintendent of schools to administer community schools, as specified, and provides a mechanism for the apportionment of funds from the State School Fund for the purpose of operating these schools. Existing law limits

community school apportionments to be made only for pupils enrolled in grades 7 to 12, inclusive.

This bill would authorize the governing board of a school district to establish one or more community day schools for pupils in kindergarten or grades 1 to 12, inclusive, for pupils who are expelled, probation referred, as specified, or referred by a school attendance review board, as specified. The minimum schoolday at these schools would consist of 360 minutes of classroom instruction provided by a certificated employee of the district or of a consortium of districts, as specified, and independent study would not be utilized. Pupil attendance at these schools for apportionment purposes would be credited by the clock hour. In addition to revenue limit funding, the school district would receive additional funds for pupil attendance at these schools, as specified. The bill would provide for a waiver of specified limitations on additional funding by the Superintendent of Public Instruction for any school district with fewer than 2,501 units of average daily attendance. The bill would provide that the amount allocated pursuant to the waiver shall not exceed specified amounts. The additional funding would be allocated only to the extent funds are appropriated in the annual Budget Act or other legislation, or both, except for pupils expelled pursuant to a specified provision of law. As to those latter pupils, for purposes of specified additional funds, the bill would continuously appropriate moneys from the General Fund to Section A of the State School Fund, thereby making an appropriation. The bill would make a statement of legislative intent with respect to community day schools.

(3) Existing law provides that a pupil expelled from school for certain offenses shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school or a juvenile court school.

This bill would add to the offenses to which the aforementioned prohibition applies and would also authorize these expelled pupils to be enrolled in a community day school.

(4) 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.

(5) Existing law provides that an expulsion order shall remain in effect until the governing board may order the readmission of a pupil. Under existing law, at the time of the expulsion, the governing board is required to set the date when the pupil may apply for readmission to a school maintained by the district. Existing law authorizes the governing board to recommend a plan of rehabilitation for an expelled pupil that may include periodic review as well as assessment at the time of application for readmission and recommendations for counseling, employment, community service, or other rehabilitative



programs. Existing law requires the governing board to adopt rules and regulations for a procedure for filing and processing requests for readmission and provides that upon completion of the readmission process, the governing board is not required to readmit the pupil.

This bill would provide that, at the time of the expulsion, the governing board shall set a date when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended, except for pupils expelled for certain acts involving a firearm. With respect to the latter pupils, the bill would require the governing board to set a date one year from the date the expulsion occurred when the pupil shall be reviewed for readmission. The bill would require the governing board to recommend a plan of rehabilitation for the pupil at the time of the expulsion order and would add to the recommendations to be included in that plan recommendations for improved academic performance, tutoring, special education assessments, and job training. The bill would also require the governing board to adopt rules and regulations establishing a process for the required review of all expelled pupils for readmission and would require the governing board to readmit expelled pupils, unless the board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. The bill would also provide that if the governing board denies the readmission of an expelled pupil, the governing board shall make a determination of placement and shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil's readmittance and the determination of the educational program. The expelled pupil would be required to enroll in that educational program unless his or her parent or guardian elects to enroll the pupil in another school district. By imposing new duties on the governing board of a school district, the bill would create a state-mandated local program.

(6) Under existing law, a pupil may be expelled from school if the pupil has engaged in specified behavior. Existing law sets forth a procedure for a hearing on the expulsion. After an expulsion order is made, it remains in effect until the governing board, in its discretion, orders readmission of a pupil. Certain pupils who have been expelled may be enrolled in a community school.

This bill would require the governing board of a school district, at the time an expulsion is ordered, to ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion, but only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both. By requiring the governing board of a school district to ensure that an educational program is provided to the pupil, the bill would impose a state-mandated local program. The bill would authorize the school district, the county superintendent of



schools, or a consortium of districts, or through joint agreement with the county superintendent of schools, to provide the educational program and would set certain limits with respect to any educational program that is offered. The bill would require the governing board of the school district to maintain outcome data and report them upon request from the State Department of Education on pupils who are expelled for any reason and who are enrolled in education programs operated by the school district, the county superintendent of schools, or as otherwise authorized. The bill would require school districts to maintain data as further specified by the Superintendent of Public Instruction. The bill would also require the county superintendent of schools, if operating an educational program, to provide outcome data to the governing board of the school district.

(7) Existing law requires that the superintendent of schools provide a pupil with written notice of any decision to expel the pupil accompanied by a notice of the pupil's right to appeal the expulsion to the county board of education.

This bill would also require that the notice of expulsion be accompanied by a notice of the education alternative placement to be provided to the pupil during the time of the expulsion.

(8) The bill would also require each county superintendent of schools operating county community schools, as specified, in conjunction with superintendents of the school districts within the county, to develop a plan for providing education services to all expelled pupils in the county. The bill would require that the plan be adopted by the governing board of each school district within the county and by the county board of education. The county superintendent of schools, in conjunction with the superintendents of the school districts within the county, would be required to submit the plan to the Superintendent of Public Instruction no later than June 30, 1997, and to submit a triennial update to the plan, including the outcome data required in (6) on June 30th thereafter. The duties thereby imposed on local education entities would constitute a state-mandated local program.

(9) This bill would incorporate additional changes in Section 48918 of the Education Code, proposed by AB 618, to be operative only if AB 618 and this bill are both chaptered and become effective January 1, 1996, and this bill is chaptered last.

(10) 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 that 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 the bill contains costs mandated by the state,



reimbursement for those costs shall be made pursuant to these statutory provisions.

(11) This bill would provide that it is not to become operative until July 1, 1996, and only if SB 966 of the 1995–96 Regular Session is enacted. The bill would specify that its provisions shall become operative only to the extent funds are appropriated in the state’s annual Budget Act, or other legislation, or both, except for pupils expelled pursuant to a specified provision of law.

Appropriation: yes.

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

SECTION 1. Section 39141.12 is added to the Education Code, to read:

39141.12. (a) If the governing board of a school district operates a program for expelled pupils, the governing board shall do one or more of the following:

(1) Utilize available school facilities that conform to the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

(2) Apply for emergency portable classrooms pursuant to Chapter 25 (commencing with Section 17785) of Part 10.

(3) Enter into lease agreements for facilities, provided that the facilities are limited to a structure where a structural engineer has submitted a report that determines substantial structural hazards do not exist.

(b) Before entering into any lease pursuant to paragraph (3) of subdivision (a), the governing board of the school district shall certify to the State Allocation Board that all reasonable efforts have been made to locate the program in facilities that conform to the structural safety standards listed in paragraph (1) of subdivision (a).

(c) On or before September 1, 1996, and every three years thereafter, each school district shall report to the State Allocation Board on the facilities utilized for the operation of these programs and efforts to place programs in facilities that conform with the requirements of Part 2 (commencing with Section 2-101), Part 3 (commencing with Section 3-089-1), Part 4 (commencing with Section 4-403), and Part 5 (commencing with Section 5-102), of Title 24 of the California Code of Regulations.

SEC. 2. Article 3 (commencing with Section 48660) is added to Chapter 4 of Part 27 of the Education Code, to read:



Article 3. Community Day Schools

48660. The governing board of a school district may establish one or more community day schools for pupils in kindergarten or any of grades 1 to 12, inclusive, who meet one or more of the conditions described in subdivision (b) of Section 48662.

48660.1. It is the intent of the Legislature that school districts operating community day schools to the extent possible include the following program components:

(a) School district cooperation with the county office of education, law enforcement, probation, and human services agencies personnel who work with at-risk youth.

(b) Low pupil-teacher ratio.

(c) Individualized instruction and assessment.

(d) Maximum collaboration with school district support service resources, including, but not limited to, school counselors and psychologists, academic counselors, and pupil discipline personnel.

48661. If pupils are expelled pursuant to subdivision (b) or (d) of Section 48915 and are served in a community day school, that program shall not be situated on a comprehensive schoolsite, except that if a county superintendent of schools certifies that no alternative program of study is available at a site away from a comprehensive middle, junior or senior high school, or an elementary schoolsite, the pupil may be referred to a community day school that is provided at a comprehensive middle, junior or senior high school, or elementary school.

48662. (a) The governing board of a school district that establishes a community day school shall adopt policies that provide procedures for the involuntary transfer of pupils to a community day school.

(b) A pupil may be assigned to a community day school only if he or she meets one or more of the following conditions:

(1) The pupil is expelled for any reason.

(2) The pupil is probation referred pursuant to Sections 300 and 602 of the Welfare and Institutions Code.

(3) The pupil is referred to a community day school by a school attendance review board or other district level referral process if a district does not operate a school attendance review board.

(4) First priority for assignment to a community day school shall be given to a pupil expelled pursuant to subdivision (d) of Section 48915, second priority shall be given to pupils expelled for any other reasons, and third priority shall be given for placement to all other pupils pursuant to this section, unless there is an agreement that the county superintendent of schools shall serve any of these pupils.

48663. (a) The minimum schoolday for pupils enrolled in community day schools is 360 minutes of classroom instruction



provided by a certificated employee of the district or of a consortium of school districts pursuant to Section 48916.1.

(b) A pupil enrolled in a community day school may not generate more than one day of community day school attendance credit in a schoolday for any purpose.

(c) For the purposes of calculating the additional funding provided to a school district pursuant to Section 48664, only community day school attendance shall be reported in clock hours. Attendance of less than five clock hours in a schoolday shall be disregarded for purposes of Section 48664. Five clock hours of attendance in one schoolday shall be deemed to be one-half day of attendance, for purposes of additional funding pursuant to Section 48664. Six clock hours or more of attendance in one schoolday shall be deemed to be one day of attendance, for purposes of additional funding pursuant to Section 48664.

(d) Independent study may not be utilized as a means of providing any part of the minimum instructional day offered pursuant to subdivision (a).

48664. (a) In addition to funds from all other sources, the Superintendent of Public Instruction shall apportion to each school district that operates a community day school one thousand five hundred dollars (\$1,500) per year, for each unit of average daily attendance reported at the annual apportionment for pupil attendance at community day schools. Average daily attendance reported for this program shall not exceed 0.375 percent of a district's prior year P2 average daily attendance in an elementary school district, 0.5 percent of a district's prior year P2 average daily attendance in a unified school district, or 0.625 percent of a district's prior year P2 average daily attendance in a high school district. The Superintendent of Public Instruction may reallocate to any school district any unexpended balance of the appropriations made for the purposes of this subdivision for actual pupil attendance in excess of the percentage specified in this subdivision for the school district in an amount not to exceed one-half of that percentage. However, the average daily attendance generated by pupils expelled pursuant to subdivision (d) of Section 48915, shall not be subject to these percentage caps on average daily attendance.

(b) In calculating the average daily attendance for a community day school, the school district shall use a divisor of 180 even if the community day school has a school year in excess of 180 days.

(c) The Superintendent of Public Instruction shall apportion to each school district that operates a community day school a sum equal to one dollar and forty cents (\$1.40) multiplied by the total of the number of hours each schoolday, up to a maximum of two hours daily, that each community day school pupil remains at the community day school under the supervision of a school district employee following completion of the full six-hour instructional day.



(d) It is the intent of the Legislature that districts enter into consortia, as feasible, for the purpose of providing community day school programs. Any school district with fewer than 2,501 units of average daily attendance may request a waiver for any fiscal year of the funding limitations defined in this section. The Superintendent of Public Instruction shall approve a waiver if he or she deems it necessary in order to permit the operation of a community day school of reasonably comparable quality to those offered in school district with 2,501 or more units of average daily attendance. In no event shall the amount allocated pursuant to a waiver exceed the amount provided for one teacher pursuant to Section 42284, for pupils enrolled in kindergarten and grades 1 to 6, inclusive, or the amount provided for one teacher pursuant to Section 42284, for pupils enrolled in grades 7 to 12, inclusive. The provisions of this act shall not apply to any school district that applied for a waiver within the funding limits established by this subdivision but was denied funding or not fully funded.

(e) The State Department of Education shall evaluate and report to the appropriate legislative policy committees and budget committees on or before October 1, 1998, and for two years thereafter the following programmatic and fiscal issues:

- (1) The number of expulsions statewide.
- (2) The number of school districts operating community day schools.
- (3) Status of the countywide plans as defined in Section 48926.
- (4) An evaluation of the community day school average daily attendance funding percentage cap.
- (5) Number of small school districts requesting and the number receiving a waiver under this section.
- (6) The effect of hourly accounting under Section 48663 for purposes of receiving the additional funding under Section 48664.
- (7) The number of pupils and average daily attendance served in community day programs, further identified as the number expelled pursuant to subdivision (d) of Section 48915, subdivision (b) of Section 48915, other expulsion criteria, or referred through a formal district process.
- (8) Pupil outcome data and other data as required under Section 48916.1.
- (9) Other programmatic or fiscal matters as determined by the State Department of Education.

(f) The additional funds provided in subdivisions (a) (c), and (d) shall only be allocated to the extent that funds are appropriated for this purpose in the annual Budget Act or other legislation, or both, except for pupils expelled pursuant to subdivision (d) of Section 48915. For pupils expelled pursuant to subdivision (d) of Section 48915, the funds apportioned under subdivision (a) are continuously



appropriated from the General Fund to Section A of the State School Fund.

48666. Notwithstanding any other provision of law, the governing board of a school district maintaining a community day school may establish attendance policies for the community day school that permit the community day school to require pupils to attend school for up to seven days each week when this action is taken as part of a directed program designed to provide community day pupils with the skills and attitudes necessary for success when returned to a regular school environment.

SEC. 3. Section 48915.2 of the Education Code is amended to read:

48915.2. (a) A pupil expelled from school for any of the offenses listed in subdivision (a) or (c) of Section 48915, shall not be permitted to enroll in any other school or school district during the period of expulsion unless it is a county community school pursuant to subdivision (c) of Section 1981, or a juvenile court school, as described in Section 48645.1, or a community day school pursuant to Article 3 (commencing with Section 48660) of Chapter 4 of Part 27.

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

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

(2) He or she is enrolled in the school pursuant to an interdistrict agreement executed between the affected school districts pursuant to Chapter 5 (commencing with Section 46600) of Part 26.

SEC. 4. Section 48915.7 of the Education Code is repealed.

SEC. 5. Section 48916 of the Education Code is amended to read:

48916. (a) An expulsion order shall remain in effect until the governing board, in the manner prescribed in this article, orders the readmission of a pupil. At the time an expulsion of a pupil is ordered for an act other than those described in subdivision (c) of Section 48915, the governing board shall set a date, not later than the last day of the semester following the semester in which the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district or to the school the pupil last attended. For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.



(b) The governing board shall recommend a plan of rehabilitation for the pupil at the time of the expulsion order, which may include, but not be limited to, periodic review as well as assessment at the time of review for readmission. The plan may also include recommendations for improved academic performance, tutoring, special education assessments, job training, counseling, employment, community service, or other rehabilitative programs.

(c) The governing board of each school district shall adopt rules and regulations establishing a procedure for the filing and processing of requests for readmission and the process for the required review of all expelled pupils for readmission. Upon completion of the readmission process, the governing board shall readmit the pupil, unless the governing board makes a finding that the pupil has not met the conditions of the rehabilitation plan or continues to pose a danger to campus safety or to other pupils or employees of the school district. A description of the procedure shall be made available to the pupil and the pupil's parent or guardian at the time the expulsion order is entered.

(d) If the governing board denies the readmission of an expelled pupil pursuant to subdivision (c), the governing board shall make a determination either to continue the placement of the pupil in the alternative educational program initially selected for the pupil during the period of the expulsion order or to place the pupil in another program that may include, but need not be limited to, serving expelled pupils, including placement in a county community school.

(e) The governing board shall provide written notice to the expelled pupil and the pupil's parent or guardian describing the reasons for denying the pupil readmittance into the regular school district program. The written notice shall also include the determination of the educational program for the expelled pupil pursuant to subdivision (d). The expelled pupil shall enroll in that educational program unless the parent or guardian of the pupil elects to enroll the pupil in another school district.

SEC. 6. Section 48916.1 is added to the Education Code, to read:

48916.1. (a) At the time an expulsion of a pupil is ordered, the governing board of the school district shall ensure that an educational program is provided to the pupil who is subject to the expulsion order for the period of the expulsion, but only to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

(b) Notwithstanding any other provision of law, any educational program provided pursuant to subdivision (a) may be operated by the school district, the county superintendent of schools, or a consortium of districts or in joint agreement with the county superintendent of schools.



(c) Any educational program provided pursuant to subdivision (b) shall not be situated within or on the grounds of the school from which the pupil was expelled.

(d) If the pupil who is subject to the expulsion order was expelled from any of kindergarten or grades 1 to 6, inclusive, the educational program provided pursuant to subdivision (b) shall not be combined or merged with educational programs offered to pupils in any of grades 7 to 12, inclusive. The district or county program is the only program required to be provided to expelled pupils as determined by the governing board of the school district.

(e) If the pupil who is subject to the expulsion order was expelled from any of grades 7 to 12, inclusive, the school district or the county superintendent of schools may offer the pupil who is subject to the expulsion order independent study in order to satisfy the requirement of subdivision (a). In order to offer independent study to a pupil who is subject to an expulsion order and in addition to any other requirements set forth in Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28 for independent study, the parent or guardian of the pupil and the pupil shall provide the written consent for placement in independent study. A school district or the county superintendent of schools shall notify the expelled pupil of the option of classroom instruction pursuant to paragraph (7) of subdivision (c) of Section 51747.

(f) (1) (A) The governing board of the school district shall maintain outcome data and report them upon request from the State Department of Education on those pupils who are expelled for any reason and who are enrolled in education programs operated by the school district, the county superintendent of schools, or as otherwise authorized pursuant to this section. Outcome data shall include, but not be limited to, attendance, graduation and dropout rates of expelled pupils enrolled in alternative placement programs. Outcome data shall also include attendance, graduation and dropout rates, and comparable levels of academic progress, of pupils participating in independent study offered by the school district.

(B) Districts shall also maintain data as further specified by the Superintendent of Public Instruction, on the number of pupils placed in community day school or participating in independent study whose immediate preceding placement was county community school, continuation school, or comprehensive school, or who was not enrolled in any school.

(C) Districts shall also maintain data on the number of pupils placed in community day school whose subsequent placement is county community school, continuation school, or comprehensive school, or who are not enrolled in any school.

(2) If the county superintendent of schools operates an educational program pursuant to this section, the county superintendent of schools shall provide to the governing board of the



school district outcome data as specified in subparagraph (A) of paragraph (1) and outcome data on pupils participating in independent study programs offered by the county office of education.

(g) If the county superintendent of schools is unable for any reason to serve the expelled pupils of a school district within the county, the governing board of that school district may enter into an agreement with a county superintendent of schools in another county to provide education services for the district's expelled pupils.

SEC. 7. Section 48918 of the Education Code is amended to read:

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

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays of the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall require that the pupil shall be entitled to at least one postponement for a period of not more than 30 calendar days of an expulsion hearing. Thereafter, any additional postponement may be granted at the discretion of the governing board.

A decision of the governing board whether to expel a pupil shall be made within 10 schooldays following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. 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. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.

(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice



shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district which relate to the alleged violation; a notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1; and notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

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

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

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

(e) Within three schooldays following the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil shall be immediately reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's



teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel 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 governing board or the hearing officer or administrative panel. Copies of these sworn declarations which are edited in such a manner as to delete the name and identity of the witness, shall be made available to the pupil.

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

(h) 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. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian, and shall be accompanied by notice of the right to appeal the expulsion to the county board of education, a notice of the education alternative placement to be provided to the pupil during the time of the expulsion, and of the



obligation of the parent, guardian, or pupil pursuant to subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district to inform the new school district of the pupil's expulsion.

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

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

SEC. 7.5. Section 48918 of the Education Code is amended to read:

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

(a) The pupil shall be entitled to a hearing to determine whether the pupil should be expelled. An expulsion hearing shall be held within 30 schooldays after the date the principal or the superintendent of schools determines that the pupil has committed any of the acts enumerated in Section 48900, unless the pupil requests, in writing, that the hearing be postponed. The adopted rules and regulations shall specify that the pupil is entitled to at least one postponement of an expulsion hearing, for a period of not more than 30 calendar days. Any additional postponement may be granted at the discretion of the governing board.

The decision of the governing board as to whether to expel a pupil shall be made within 10 schooldays after the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed. If the hearing is held by a hearing officer or an administrative panel, or if the district governing board does not meet on a weekly basis, the governing board shall make its decision about a pupil's expulsion within 40 schooldays after the date of the pupil's removal from his or her school of attendance for the incident for which the recommendation for expulsion is made by the principal or the superintendent, unless the pupil requests in writing that the decision be postponed.

In the event that compliance by the governing board with the time requirements for the conducting of an expulsion hearing under this subdivision is impracticable, the superintendent of schools or the superintendent's designee may, for good cause, extend the time period for the holding of the expulsion hearing for an additional five schooldays. 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. Upon the commencement of the hearing, all matters shall be pursued and conducted with reasonable diligence and shall be concluded without any unnecessary delay.



(b) Written notice of the hearing shall be forwarded to the pupil at least 10 calendar days prior to the date of the hearing. The notice shall include: the date and place of the hearing; a statement of the specific facts and charges upon which the proposed expulsion is based; a copy of the disciplinary rules of the district that relate to the alleged violation; a notice of the parent, guardian, or pupil's obligation pursuant to subdivision (b) of Section 48915.1; and notice of the opportunity for the pupil or the pupil's parent or guardian to appear in person or employ and be represented by counsel, to inspect and obtain copies of all documents to be used at the hearing, to confront and question all witnesses who testify at the hearing, to question all other evidence presented, and to present oral and documentary evidence on the pupil's behalf, including witnesses.

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

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

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

(e) Within three schooldays after the hearing, the hearing officer or administrative panel shall determine whether to recommend the expulsion of the pupil to the governing board. If the hearing officer or administrative panel decides not to recommend expulsion, the expulsion proceedings shall be terminated and the pupil immediately shall be reinstated and permitted to return to a classroom instructional program, any other instructional program, a rehabilitation program, or any combination of these programs. Placement in one or more of these programs shall be made by the



superintendent of schools or the superintendent's designee after consultation with school district personnel, including the pupil's teachers, and the pupil's parent or guardian. The decision not to recommend expulsion shall be final.

(f) If the hearing officer or administrative panel recommends expulsion, findings of fact in support of the recommendation shall be prepared and submitted to the governing board. All findings of fact and recommendations shall be based solely on the evidence adduced at the hearing. If the governing board accepts the recommendation calling for expulsion, acceptance shall be based either upon a review of the findings of fact and recommendations submitted by the hearing officer or panel or upon the results of any supplementary hearing conducted pursuant to this section that the governing board may order.

The decision of the governing board to expel a pupil shall be based upon substantial evidence relevant to the charges adduced at the expulsion hearing or hearings. Except as provided in this section, no evidence to expel shall be based solely upon hearsay evidence. The governing board or the hearing officer or administrative panel 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 governing board or the hearing officer or administrative panel. Copies of these sworn declarations, edited to delete the name and identity of the witness, shall be made available to the pupil.

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

(h) Technical rules of evidence shall not apply to the hearing, except that 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. A decision of the governing board to expel shall be supported by substantial evidence showing that the pupil committed any of the acts enumerated in Section 48900.

(i) (1) Before the hearing has commenced, the governing board may issue subpoenas at the request of either the superintendent of schools or the superintendent's designee or the pupil, for the personal appearance of percipient witnesses at the hearing. After the hearing has commenced, the governing board or the hearing officer or administrative panel may, upon request of either the county superintendent of schools or the superintendent's designee or the pupil, issue subpoenas. All subpoenas shall be issued in accordance



with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure. Enforcement of subpoenas shall be done in accordance with Section 11525 of the Government Code.

(2) Any objection raised by the superintendent of schools or the superintendent's designee or the pupil to the issuance of subpoenas may be considered by the governing board in closed session, or in open session, if so requested by the pupil before the meeting. Any decision by the governing board in response to an objection to the issuance of subpoenas shall be final and binding.

(3) If the governing board, hearing officer, or administrative panel determines, in accordance with subdivision (f), that a percipient witness would be subject to an unreasonable risk of harm by testifying at the hearing, a subpoena shall not be issued to compel the personal attendance of that witness at the hearing. However, that witness may be compelled to testify by means of a sworn declaration as provided for in subdivision (f).

(4) Service of process shall be extended to all parts of the state and shall be served in accordance with Section 1987 of the Code of Civil Procedure. All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed for witnesses in civil actions in a superior court. Fees and mileage shall be paid by the party at whose request the witness is subpoenaed.

(j) Whether an expulsion hearing is conducted by the governing board or before a hearing officer or administrative panel, final action to expel a pupil shall be taken only by the governing board in a public session. Written notice of any decision to expel or to suspend the enforcement of an expulsion order during a period of probation shall be sent by the superintendent of schools or his or her designee to the pupil or the pupil's parent or guardian and shall be accompanied by notice of the right to appeal the expulsion to the county board of education, a notice of the education alternative placement to be provided to the pupil during the time of expulsion, and of the obligation of the parent, guardian, or pupil under subdivision (b) of Section 48915.1, upon the pupil's enrollment in a new school district, to inform that district of the pupil's expulsion.

(k) The governing board shall maintain a record of each expulsion, including the cause therefor. Records of expulsions shall be a nonprivileged, disclosable public record.

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

SEC. 8. Section 48926 is added to the Education Code, to read:



48926. Each county superintendent of schools in counties that operate community schools pursuant to Section 1980, in conjunction with superintendents of the school districts within the county, shall develop a plan for providing education services to all expelled pupils in that county. The plan shall be adopted by the governing board of each school district within the county and by the county board of education.

The plan shall enumerate existing educational alternatives for expelled pupils, identify gaps in educational services to expelled pupils, and strategies for filling those service gaps. The plan shall also identify alternative placements for pupils who are expelled and placed in district community day school programs, but who fail to meet the terms and conditions of their rehabilitation plan or who pose a danger to other district pupils, as determined by the governing board.

Each county superintendent of schools, in conjunction with the superintendents of the school districts, shall submit to the Superintendent of Public Instruction the county plan for providing educational services to all expelled pupils in the county no later than June 30, 1997, and shall submit a triennial update to the plan to the Superintendent of Public Instruction, including the outcome data pursuant to Section 48916.1, on June 30th thereafter.

SEC. 9. (a) This act shall not become operative until July 1, 1996, and shall only become operative if Senate Bill 966 of the 1995-96 Regular Session is enacted.

(b) With the exception of pupils expelled pursuant to subdivision (d) of Section 48915, the provisions of this act shall become operative only to the extent funds are appropriated for its purpose in the annual Budget Act, or other legislation, or both.

SEC. 10. Section 7.5 of this bill incorporates amendments to Section 48918 of the Education Code proposed by both this bill and AB 618. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1996, (2) each bill amends Section 48918 of the Education Code, and (3) this bill is enacted after AB 618, in which case Section 7 of this bill shall not become operative.

SEC. 11. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative



on the same date that the act takes effect pursuant to the California Constitution.

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