



LAW UPDATE EDUCATION

PHONE: (661) 636-4830 • FAX: (661) 636-4843
E-mail: sls@kern.org • www.schoolslegalservice.org

July 2020

NEW STUDENT DISCIPLINE RULE

Effective July 1, 2020, Grade 4-8 students may no longer be suspended from school for violating Education Code section 48900(k) – Willful Defiance or Disruption.

Three bills passed by the Legislature over the past eight years, Assembly Bill 1729 (2012), Assembly Bill 420 (2014), and Senate Bill 419 (passed in 2019, effective July 1, 2020), impact districts' reliance on "willful defiance or disruption" to discipline students.

Per AB 420, Education Code section 48900(k) may not be used to expel students in Grades K-12 or suspend pupils in Grades K-3 from school. Per SB 419, Section 48900(k) may not be used to suspend students in Grades 4-8. These rules also apply to "in school" or "supervised" suspensions as described by Education Code section 48911.1. Section 48911.1 provides that a pupil suspended from school can be assigned to a supervised classroom if the pupil: (i) does not pose an imminent danger to other pupils or staff; (ii) does not pose a "threat to the campus"; and (iii) if an expulsion has not been initiated.

AB 420 and SB 419 were enacted because of student discipline data which suggests that: (i) statewide, students of color and those with disabilities were being suspended and expelled for willful defiance/disruption at excessively high rates, thus demonstrating that discipline for this offense was being applied in an unlawfully discriminatory fashion; and (ii) discipline which excludes pupils from their regular day program is counterproductive, causes truancy and dropouts, leads to criminal activity, and causes excessively high incarceration rates, particularly among students of color.

Note, however, that Education Code section 48910 still permits individual teachers to continue to suspend students from their classrooms for willful defiance/disruption. The maximum duration of a suspension from class by a teacher is the remainder of the class period plus the following day.

Schools may continue to suspend students in Grades 9-12 for willful defiance/disruption. However, AB 1729 imposes the requirement that a good deal of non-punitive and in-school discipline strategies must first be directed at the student's problematic behavior. AB 1729 revised Education Code section 48900.5. Per Section 48900.5, when the underlying student misconduct is willful defiance/disruption (and most other offenses as well), suspension may be imposed only when alternative means of correction have failed to bring about proper conduct. Those other means should be documented and may include conferences, referrals to a school counselor, social worker, etc., study teams, psycho-social assessment, pro-social behavior programs, restorative justice programs, campus-wide positive behavior support with tiered interventions, after school behavior programs, and community service.

Please contact our office if you have questions or concerns.

~ Alan B. Harris

School Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.