

Students

BP 5116.2 (a)

INVOLUNTARY STUDENT TRANSFERS

While the Governing Board desires to enroll students in the school of their choice, it recognizes that circumstances sometimes necessitate the involuntary transfer of some students to another school or program in the district.

The Superintendent or designee shall develop procedures to facilitate the involuntary transition of such students.

As applicable and as permitted by law, the Superintendent or designee shall review all educational options for which the student is eligible, the student's academic progress and needs, the enrollment capacity at district schools or programs to which the student could be involuntarily transferred, and the availability of support services and other resources.

The Superintendent or designee shall ensure that involuntary transfers are made in a non-discriminatory manner as specified in Board Policy 0410 - Nondiscrimination In District Programs And Activities.

Involuntary Transfer of a Student Convicted of Violent Felony or Misdemeanor Related to Possession of Firearms

A student may be transferred to another district school if he/she is convicted of a violent felony, as defined in Penal Code 667.5(c), or a misdemeanor listed in Penal Code 29805 and is enrolled at the same school as the victim of the crime for which the student was convicted. (Education Code 48929) However, before recommending such a transfer, the Superintendent, the principal, or other designee shall notify the student and the student's parent(s)/guardian(s) of the right to request a meeting with the principal or designee and shall attempt to resolve the conflict using restorative justice, counseling, or other such services. Participation of the victim in any conflict resolution program shall be voluntary, and the victim shall not be subjected to any disciplinary action for refusing to participate. (Education Code 48929)

If the attempt to resolve the conflict using restorative justice, counseling, or other such services is not successful or the victim elects not to participate, the principal or designee may submit to the Superintendent or designee a recommendation that the student should be involuntarily transferred. If the Superintendent or designee agrees with the recommendation, the Superintendent shall submit such recommendation to the Board for approval. The Superintendent's recommendation to the Board shall include the date by which the Superintendent or designee will review the involuntary transfer to determine whether to recommend to the Board that the student be permitted to transfer back to the student's original school.

The Board shall, in accordance with Board Bylaw 9321 - Closed Session, deliberate and vote on the recommendation, as well as any subsequent recommendation to permit the student to transfer back to the student's original school, in closed session to maintain the confidentiality of student information, unless a parent/guardian or adult student submits a written request that the matter be

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addressed in open session and doing so would not violate the privacy rights of any other student. The Board's decisions in these instances shall be final.

Involuntary Transfers to a Continuation Education Program or Class within the District

The Superintendent or designee may involuntarily transfer a high school student to a continuation education program or class in the district if the student commits an act enumerated in Education Code 48900 or is habitually truant or irregular in school attendance and either of the following conditions are met: (Education Code 48432.5)

1. Other means to improve the student's behavior have failed
2. It is the first time the student committed an act enumerated in Section 48900 and the principal of the student's school determines that the student's presence causes a danger to person(s) or property or threatens to disrupt the instructional process.

Prior any final decision to involuntarily transfer a student, the Superintendent or designee shall notify the student and the student's parent(s)/guardian(s) of the right to request a hearing with the Superintendent or designee. If such a hearing is requested, the Superintendent or designee shall provide the specific facts and reasons for the proposed transfer, including all documents relied upon. At the hearing, the Superintendent or designee shall also allow the student or the student's parent(s)/guardian(s) to question any evidence or witnesses presented and present evidence, including witnesses, on the student's behalf. The student shall be allowed to bring one or more representatives to present at the hearing. (Education Code 48432.5)

If the Superintendent or designee decides to involuntarily transfer the student, the Superintendent or designee shall provide the decision to the student and the student's parent(s)/guardian(s) in writing. The decision shall include the facts and reasons for the decision and whether the decision is subject to periodic review and the periodic review procedure. (Education Code 48432.5)

The decision shall also include the date by which the student may transfer back to the student's original school, which shall be no longer than the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred. (Education Code 48432.5)

The final decision to involuntarily transfer the student may not involve a member of the staff of the school in which the student is enrolled at the time that the decision is made. (Education Code 48432.5)

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Involuntary Transfers to a Community Day School within the District

If a student is expelled from school for any reason in accordance with Board Policy 5144.1 - Suspension and Expulsion/Due Process, is probation-referred pursuant to Welfare and Institutions Code 300 or 602, or is referred by a school attendance review board or another formal district process, the student may be transferred to a district community day school as specified in Board Policy 6185 - Community Day School. (Education Code 48662)

Notice, Information, and Reports

The Superintendent or designee shall include notice of this policy in the annual notification to parents/guardians in accordance with Education Code 48980. (Education Code 48929)

Whenever 15 percent or more of the students enrolled in a district school speak a single primary language other than English, as determined from the California Department of Education census data collected pursuant to Education Code 52164, all notices and reports sent to the parent(s)/guardian(s) of any such student shall, in addition to being written in English, be written in the primary language, and may be responded to either in English or the primary language. (Education Code 48981, 48985)

Whenever an employee learns that a student's parent/guardian is unable to understand the district's printed notifications or reports for any reason, the employee shall inform the principal or designee, who shall work with the parent/guardian to establish other appropriate means of communication.

When a foster youth or American Indian Student, as defined in Welfare and Institutions Code 224.1, is being considered for an involuntary transfer, all notices, documents, and information that would be provided to parents/guardians shall be provided to the foster youth's educational rights holder, attorney, and county social worker and the American Indian Student's tribal social worker and, if applicable, county social worker. (Education Code 48853.5)

State

Ed. Code 234.1: Monitoring, review, and assessment of antidiscrimination, antiharassment, anti-intimidation, and antibullying requirements

Ed. Code 35146: Closed sessions; student matters

Ed. Code 48430-48438: Continuation classes

Ed. Code 48432.5: Involuntary transfer to continuation school

Ed. Code 48660-48666: Community Day schools

Ed. Code 48662: Involuntary transfer to community day school

Ed. Code 48853.5: Foster children; notice of educational rights; educational liaison; duties; continuation at school of origin; complaint of noncompliance

Ed. Code 48900: Grounds for suspension or expulsion

Ed. Code 48915: Expulsion

Ed. Code 48929: Transfer of student convicted of violent felony or misdemeanor

Ed. Code 48980: Parent/Guardian notifications

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Ed. Code 48981: Timing and method of parent/guardian notifications

Ed. Code 48985: Notices to parents in language other than English

Ed. Code 52164: Census of pupils of limited English proficiency

Pen. Code 29805: Misdemeanors involving firearms

Pen. Code 667.5: Definition of violent felony

W&I Code 224.1: Indian child; definition

W&I Code 300: Minors subject to jurisdiction

Management Resources

California Department of Education Memorandum: Overuse and Improper Use of Voluntary and Involuntary Transfers, September 2023

Court Decision: Nathan G. v. Clovis Unified School District (2014) 224 Cal.App.5th 1393

Website: CSBA District and County Office of Education Legal Services

Website: California Department of Education

Website: CSBA

Policy Adopted: 3/13/24

ORCUTT UNION SCHOOL DISTRICT
Orcutt, California