

VENTURA COUNTY BOARD OF EDUCATION

**ADMINISTRATIVE
REGULATION NO. 5119**

ADOPTED: 02/24/97

CLASSIFICATION: Students

**REVISED: 01/28/99
07/30/99**

SUBJECT: Expulsion Appeals

10/30/00

This Administrative Regulation governs the procedures for an appeal:

1. Definitions: As used in this regulation:
 - a. "Appellant" means the expelled student if such student is an adult or an emancipated minor, and the parent or guardian of the expelled student if such student is an unemancipated minor, or their legal counsel.
 - b. "County Board" means the Ventura County Board of Education.
 - c. "Respondent" means the governing board of the school district from which the student was expelled.
 - d. "Secretary" means the County Superintendent of Schools or designee.
 - e. "Day" means a calendar day unless otherwise specifically provided.
 - f. "School Day" means a day upon which the schools of Respondent district are in session or weekdays during summer recess.
2. Time to Appeal. Appellant may appeal a decision of Respondent to expel the student by filing a notice of appeal within thirty (30) days after the day on which Respondent took "final action" to expel the student pursuant to Education Code Section 48918. A notice of appeal is filed when it is received by the Secretary at 5189 Verdugo Way, Camarillo, California 93012-8603.
3. Form of Notice of Appeal. The notice of appeal shall be on the form provided by the Board and shall contain the following information:
 - a. The name, address and telephone number of Appellant;
 - b. The name and address of the expelled student if such student is not Appellant;

- c. The relationship (i.e., "parent" or "guardian") of Appellant to the expelled student if such student is not Appellant;
 - d. The name, address and telephone number of Appellant's attorney or other representatives, if any;
 - e. The name of Respondent's school district;
 - f. The date of Respondent's final action to expel the student and the effective date of the expulsion;
 - g. The grounds for the appeal and, separately, with respect to each such ground, a brief statement of the facts in support of such ground; and
 - h. The signature of the Appellant.
4. Service of Notice of Appeal and Sections. Within five (5) days after the filing of the notice of appeal, the Secretary shall serve upon the Appellant and upon Respondent in person or by certified mail, return receipt requested, a copy of the notice of appeal and a copy of this Administrative Regulation governing appeals.
5. "Filing of Transcript". The Appellant shall submit a written request for a copy of the written transcripts and supporting documents from Respondent at the same time as the Notice of Appeal is filed with the County Board. This request shall be incorporated within the Notice as set forth under Section 3 above and transmitted under Section 4 above. The Respondent shall provide the Appellant with the transcriptions, supporting documents, and records within ten (10) school days following the earliest receipt of a written request for same as provided herein. Appellant shall immediately file suitable copies of the transcriptions, supporting documents and records with the County Board.
- 5.1 Filing of Partial Transcripts and/or Agreed Statement of Facts. Pursuant to the written stipulation of the parties, either the Appellant or Respondent may file, in lieu of a transcript of the entire hearing from which the appeal is taken, a partial transcript, an agreed statement of facts, or both. Any party filing such a document will provide the opposing party with a written copy of same. Promptly after such filing, the Secretary shall serve a written notice thereof upon the non-filing party.
6. Record on Appeal. The transcriptions, supporting documents and records referred to in Section 5 make up the Record on Appeal. These include, but are not necessarily limited to, the following:
- a. A copy of the notices sent pursuant to § 48918 of the Education Code;
 - b. A copy of all documentary evidence (including photographs, tape recordings, videotapes, letters, etc.);

- c. A copy of all findings upon which the expulsion is based;
- d. A copy of the minutes of the meeting or meetings of Respondent at which the expulsion hearing was conducted, including an Administrative Panel, or action taken by Respondent respecting the expulsion; and
- e. A copy of all rules, regulations and policies of Respondent governing the expulsion proceedings.

While it is the responsibility of the pupil (Appellant) to pay for the cost of transcription of the expulsion hearings before the Respondent, such costs may be waived or reimbursed under the provisions of Education Code § 48921.

- 7. Inspection and Copying of Record on Appeal. After it is filed with the Secretary, the record on appeal shall be made available for inspection by Appellant and Respondent and their respective representatives, if any, at all reasonable times prior to the hearing. Appellant and Respondent may obtain copies of all or any portions of the record on appeal upon payment of the reasonable cost of reproduction.
- 8. Setting Hearing on Appeal. Upon receipt of the notice of appeal, the Secretary shall set the appeal for hearing at a regular or special meeting of the County Board to be held within twenty (20) school days of the receipt of the notice of appeal, unless Appellant requests a postponement.
- 9. Notice of Hearing on Appeal. The Secretary shall serve written notice of the hearing upon Appellant and Respondent as soon as is practicable and in no event less than ten (10) days before the date for which the hearing is set. Such notice shall state the date, time, and place of the hearing and shall further state that the hearing will be in closed session unless Appellant, in writing received by the Secretary at least five (5) days before the date of the hearing, requests that the hearing be a public meeting.
- 10. Continuances of Hearing Date. Requests for continuances may be made either by the Appellant alone or by the Appellant and Respondent and shall be directed to the Secretary. The Secretary shall grant a continuance in the following cases:
 - a. Stipulated Continuances. Where Appellant and Respondent jointly seek, in writing, a continuance to a later agreed upon hearing date, and file such written request with the Secretary, then the Secretary shall reset the hearing date to the date specified in the written request or to a date as soon thereafter as the matter can reasonably be heard by the County Board.
 - b. Request by Appellant Alone. Appellant may, as of right, request one continuance, either in writing or orally, and the Secretary shall, upon receipt of said request, reset the hearing date to a date not more than ten (10) days after the then scheduled hearing date and serve written notice of such continuance upon Respondent and Appellant.

11. Relief from Default. The County Board for good cause may relieve a party from a default occasioned by any failure to comply with these rules, except the failure to give timely notice of appeal.
12. Preservation of Record of Hearing Before County Board. A record of the oral proceedings in the hearing before the County Board shall be made by means of a tape recorder and/or a certified shorthand reporter, as the Secretary may direct. If the Secretary does not direct that such proceedings be recorded by a certified shorthand reporter, either party may cause such proceedings to be so recorded, in which case that party shall bear the cost of the reporter. If only a tape recorder is used, those present at the hearing shall be so informed by the Secretary, and each person who speaks during the hearing (and each time he/she speaks) shall be required to state his/her name. Such record shall be preserved by the County Board for a period of four (4) years after the order of the County Board respecting the appeal becomes final.
13. Conduct of Hearing. The President of the County Board shall preside over the meeting. The hearing shall be conducted in closed session unless Appellant, in writing received by the Secretary at least five (5) days before the date of the hearing, requests that the hearing be a public meeting. If such request is timely made, the meeting shall be public. The order of presentation and the time limits for presentations will be regulated in the sound discretion of the President of the County Board. Ordinarily, the order of presentation will be as follows:
 - a. Brief summary of case by the Secretary.
 - b. Presentation by Appellant.
 - c. Presentation by Respondent.
 - d. Concluding remarks by Appellant.
 - e. During and after such presentations members of the County Board may be recognized by the President of the County Board for the purpose of directing questions to any person who appeared before the County Board.
 - f. The President of the County Board will declare hearing ended and, regardless of whether the hearing was conducted in closed session or a public meeting, the County Board shall conduct its deliberations in closed session.
 - g. If, during such deliberations, any member of the County Board wishes to ask additional questions of any person who appeared before the County Board, the President of the County Board may reopen the hearing and recall such person, provided that Appellant and his representative, if any, are first given an opportunity to be present.

- h. During such deliberations, and without reopening the hearing, the County Board may consult with its legal counsel, if any, respecting relevant matters of law.
14. Scope of Review by County Board. The County Board shall determine the appeal upon the Record on Appeal. The County Board shall not receive any evidence other than that contained in the Record on Appeal unless a de novo proceeding is granted as provided in Section 15 (a) (2). The review by the County Board of the decision of Respondent shall be limited to the following:
- a. Whether Respondent has proceeded without or in excess of its jurisdiction;
 - b. Whether there was a fair hearing before the Respondent;
 - c. Whether there was a prejudicial abuse of discretion in the hearing; and
 - d. Whether there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the Respondent.
15. Decision of County Board. The determination of the County Board shall be as follows:
- a. In appeals where the County Board finds there is relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board, it may:
 - (1) Enter an order remanding the matter to Respondent for reconsideration in light of such evidence and may in addition order the student reinstated pending such reconsideration; or
 - (2) Grant a hearing de novo upon notice thereof to Appellant and to Respondent. Such hearing shall be conducted in conformance with the procedures set forth in § 16.
 - b. If the County Board determines that the decision of the Respondent is not supported by the findings required to be made by Education Code § 48915, but evidence supporting the required findings exist in the record of the proceedings, the County Board shall remand the matter to the Respondent for adoption of the required findings. This remand for the adoption and inclusion of the required findings shall not result in an additional hearing pursuant to Education Code § 48918, except that final action to expel the pupil based on the revised findings of fact shall meet all requirements of subdivisions (j) and (k) of Education Code § 48918.

- c. In all other cases, the County Board shall enter an order affirming or reversing the expulsion action of Respondent. In any case in which the County Board enters a decision reversing the expulsion action, they may direct the Respondent to expunge the record of the student and records of the district of any references to the expulsion action. In any case in which the County Board enters a decision reversing the expulsion action, they shall order Respondent to reimburse Appellant for costs incurred by Appellant for the transcript of the hearing before the Respondent.
 - d. Said decision shall be rendered within three (3) school days of the completion of the hearing unless extended with the Appellant's consent.
16. Procedures on Hearing De Novo. If the County Board orders a hearing de novo, the Secretary shall set the date for such hearing de novo and serve written notice thereof upon Appellant and Respondent. Such notice shall state (i) the date, time and place of the hearing de novo; (ii) that the hearing de novo will be in closed session unless Appellant, in writing received by the Secretary at least five (5) days before the date of the hearing de novo, requests that the hearing de novo be a public meeting; and (iii) that the hearing de novo will be based upon the same charges as was the expulsion hearing before Respondent, a copy of which charges shall be attached to the notice. Such notice shall be served as soon as is practicable and in no event less than ten (10) days before the date for which the hearing de novo is set. The hearing de novo shall be conducted in the manner prescribed in Section 13. Each party and the County Board may call and examine witnesses, introduce exhibits, cross-examine witnesses on any matter relevant to the issues even though such matter was not covered on direct examination, and impeach any witness regardless of which party first called him to testify. Technical rules of evidence shall not apply, but evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to reply in the conduct of serious affairs.
17. Decision Following Hearing De Novo; Findings. The decision of the County Board after a hearing de novo shall be as prescribed in subdivision (b) of Section 15. In addition, simultaneously with the rendering of its decision after a hearing de novo, the County Board shall adopt appropriate findings of fact.
18. Quorum; Action by Majority Vote. A majority of all the members of the County Board shall constitute a quorum for the transactions of any business. The County Board shall act by majority vote of all of its members.

Legal Reference:

EDUCATION CODE

48918 Procedures for expulsion hearings
48919-48925 Appeals to County Board of Education