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VENTURA COUNTY SUPERINTENDENT OF SCHOOLS
"Commitment to Quality Education for All"

EXPULSION APPEAL PROCESS

INTRODUCTION

One of the duties and responsibilities of the Ventura County Board of Education is to hear expulsion appeals from school districts under its jurisdiction. These include: Briggs, Conejo Valley Unified, Fillmore Unified, Hueneme, Mesa Union, Moorpark Unified, Mupu, Oak Park Unified, Ocean View, Ojai Unified, Oxnard, Oxnard Union High, Pleasant Valley, Rio, Santa Clara, Santa Paula Unified, Simi Valley Unified, Somis Union, and Ventura Unified.

In hearing appeals, the County Board is committed to fairness and consistency in its decisions. To achieve this goal, the County Board wishes to ensure that community members know how to appropriately exercise their right to appeal.

This document is intended to provide the information necessary to assist in appealing an expulsion order of a school district board of education (hereafter, "local board"). While this information attempts to explain the appeal process, it is not a substitute for important original sources such as the California Education Code (E.C. §48900-48926) or the local school district's policies and procedures pertaining to the suspension and expulsion process. The student or the student's parent or guardian filing an appeal (also referred to as the "appellant") should also review the complete record of the hearing which includes a transcript of the proceedings along with supporting documents and may want to consult with a parent/child advocate or attorney.

WHEN MAY AN APPEAL BE FILED WITH THE VENTURA COUNTY BOARD OF EDUCATION?

1. The student or the student's parent or guardian has the right to file an appeal of expulsion to the Ventura County Board of Education within thirty (30) calendar days after the local board's decision to expel the student. If thirty days (30) have passed since the date of the local board's decision to expel, the Ventura County Board of Education **does not** have jurisdiction to hear the appeal.

On some occasions, a district may suspend the enforcement of an expulsion allowing a student to return to school under certain conditions. However, the thirty (30) daytime limitation applies, even though the student may be attending a district school.

Day 1 of the thirty (30) days starts the day after the date of the local board's decision to expel. If the 30th day falls on a Saturday, Sunday, or holiday, the appeal may be filed the next business day. Filing requires receipt by the Ventura County Superintendent of Schools.

2. An appeal may be filed when the student or the student's parent or guardian feels that one or more of the conditions as described under "Scope and Limitations of a Hearing" (see page 3) have been violated. **It is helpful if the parties making an appeal understand that an appeal before the Ventura County Board of Education is not a rehearing, but rather a REVIEW OF THE RECORD OF LOCAL PROCEEDINGS to determine that all due process procedures were followed and that a fair hearing was conducted.** Individuals are encouraged to carefully review "Scope and Limitations of the Hearing" and to contact the Ventura County Superintendent of Schools with any questions (telephone 805-383-1902).

HOW IS AN APPEAL REQUEST MADE?

The student or the student's parent or guardian may file an appeal by submitting the *Notice of Appeal* form (included in Exhibit 2) to the Ventura County Superintendent of Schools in person or by mail to:

Ventura County Board of Education
Attn: Ventura County Superintendent of Schools
5189 Verdugo Way
Camarillo, CA 93012-8603

Additionally, the Notice of Appeal form may be emailed to Lisa Bork at lbork@vcoe.org.

The form requesting an appeal must contain the following information:

1. Name, address and telephone number of parent or guardian of the student and the name, address and telephone number of the person, if any, representing the student.
2. Name, age, date of birth, and grade level of student.
3. School district of residence and school most recently attended by the student.
4. The date the local board voted to expel the student. (Please attach a copy of the expulsion letter.)
5. A statement of the basis for the appeal that relates to one or more of the conditions as described in "Scope and Limitations of the Hearing" (beginning on page 3).

EXPULSION DOCUMENTS FROM THE SCHOOL DISTRICT

On the same day the request for an appeal is made with the County Board, the student or the student's parent or guardian must submit a written request for a copy of the written transcripts and supporting documents from the local school district.

Within ten (10) school days of receipt of a written request for records, the local district must provide a transcribed copy of the complete record of the hearing, which must be certified/signed by the local district's superintendent or designee, to the appellant. Typically, the local district will have a taped record of the hearing that must be transcribed to a written record for an appeal. The appellant will be responsible for the cost of the transcription. If the appeal is upheld, the local district is required to reimburse costs. If the appellant cannot afford the cost of the transcription due to "limited income" or "exceptional necessary expenses," the transcripts will be provided at no cost (E.C. §48921). **It is the appellant's responsibility to see that the transcripts and all supporting documents from the local district are immediately provided to the Ventura County Superintendent of Schools office, but no later than ten (10) calendar days prior to the date of the hearing before that County Board.**

WHAT HAPPENS NEXT?

Once the Ventura County Superintendent of Schools has received the Notice of Appeal Form, a date will be set for the appeal hearing. The hearing must be held within twenty (20) school days after the request for an appeal has been received. A waiver permitting some flexibility in setting the actual date of the appeal hearing may be offered or requested. Typically, appeal hearings are held in conjunction with the regularly scheduled meetings of the Ventura County Board of Education. Both the appellant and the local school district will receive notices by mail at least ten (10) calendar days before the hearing regarding the date,

time, and place of the hearing.

The notice of the hearing will contain a statement that the Ventura County Board of Education intends to hold the hearing in closed session (*i.e.*, not open to the general public). The California Education Code requires that the hearing be closed unless there is a request that the hearing be conducted in open (public) session. If an open hearing is desired, it must be requested in writing five (5) calendar days prior to the hearing date (E.C. §48920).

During this period prior to the hearing, the Ventura County Board of Education will also request that the local school district provide:

1. Copies of all documents pertaining to the expulsion.
2. The local school district's policies, rules and procedures dealing with disciplinary due process.

All of this information is forwarded to the Ventura County Board of Education members for review prior to the appeal hearing.

SCOPE AND LIMITATIONS OF THE HEARING

The Ventura County Board of Education is required to base its appeal consideration upon the **written record** of the hearing including documents produced at the hearing, conducted in the student's local school district. Only under special circumstances discussed in item 4 (see below) may a County Board actually consider new evidence. The County Board's charge is to determine if the student's due process rights were violated in a manner which resulted in the student's receiving an **unfair** hearing.

It is NOT the charge of the County Board to agree or disagree with the local board's decision to expel, but to assure that due process procedures were followed as prescribed in the Education Code and that a fair hearing was conducted. The appellant must consider the following questions and related explanations in preparing an appeal.

1. Did the local board proceed without or in excess of its jurisdiction in expelling the student?

Explanation: The California Education Code (§48900 and §48915) specifies the reasons for which a student may be expelled, the required procedural timelines, and that the act or acts must be related to school activity or attendance.

2. Was the student afforded a fair hearing before the local board?

Explanation: The local school district is required to provide timely notice of the hearing; to hear and examine all evidence submitted; and to allow a reasonable opportunity for the student to present evidence to deny, explain, or mitigate the allegations.

3. Was there a prejudicial abuse of discretion by the local board?

Explanation: The basic objective of the expulsion process, as defined in the Education Code, is to afford a fair hearing to the student. If the local school district fails to meet certain procedural timelines, expels a student for the wrong reason (E.C. §48900 and §48915), or refuses to allow the student an opportunity to introduce relevant evidence at the hearing, this may amount to an abuse of discretion. If the circumstances are such that these errors result in an unfair and unjustified determination by the local district to the detriment of the student, then the decision may be challenged on that basis by the student.

4. Is there relevant and material evidence which, with reasonable diligence, could not have been

revealed in the hearing before the local board, and was not produced, or was improperly excluded?

Explanation: Sometimes evidence, including documents and witnesses, are not known or are unavailable at the time of the hearing, through no fault of the student or the representative. Additionally, the local district incorrectly may not have allowed certain documents or witnesses to be presented during the hearing. If such evidence could reasonably have changed the determination of the local board, the case may be remanded (returned) to the local district for a redetermination or heard as a hearing de novo (new hearing) by the local board.

WHAT WILL HAPPEN AT THE HEARING?

Hearings are conducted in **closed** session (unless an **open** hearing has been requested) during regular Ventura County Board of Education meetings held at the:

**Ventura County Office of Education
Conference and Educational Services Center
5100 Adolfo Road
Camarillo, CA 93012-8603**

The appellant and/or the appellant's representatives and the representatives of the local district will be asked to take seats at a table in front of the County Board. The appellant, the local district, and the County Board all have the right to legal counsel. The County Board generally will be represented by a legal counsel for the board. A recording of the hearing can be available for transcription if necessary. If an open meeting is requested, the public, including the media, also have the right to be present.

The hearing will be conducted as follows:

1. The President or Vice-President of the County Board will preside over the meeting. The Ex-Officio Officer and Executive Secretary to the County Board will provide a brief summary of the case. This will be followed by a statement of the County Board's legal counsel as to the general procedures to be followed. The parties will be cautioned that this is an appellant process, and no new evidence can be considered. However, new evidence may be presented to support an argument that such evidence should have been allowed at the hearing or that while it was unknown or unavailable then, a new hearing should be conducted because of its importance to the ultimate determination of the expulsion.

A written brief may be submitted by each of the parties prior to the opening of argument but will not be considered as "evidence".

2. The student, parent/guardian, or counsel for the student will be allowed to present the initial opening statement. The statement is limited to five (5) minutes. If the student and/or student's parent or guardian requires an interpreter, the time limit is extended to ten (10) minutes.
3. Following the opening statement, the local district will then make an oral response. The response is limited to five (5) minutes. If the student and/or student's parent or guardian requires an interpreter, the time limit is extended to ten (10) minutes.
4. The student or the student's representative will then have an opportunity to make a reply to the local district. The response is limited to two (2) minutes. If the student and/or student's parent or guardian requires an interpreter, the time limit is extended to four (4) minutes.
5. During or after the arguments, members of the County Board may question both sides and request clarification of certain facts and circumstances relating to the local district's expulsion hearing.

6. Upon completion of the arguments and questioning by the County Board, all County Board Members present will be excused by the County Board's President. The members will thereafter deliberate in closed session and review the arguments of both sides and the evidence presented during the local district's expulsion hearing. The County Board may call back any party for further questions during the course of deliberations. If this occurs, all parties must be present.
7. Following deliberations, the County Board will convene in open session to make its decision.

WHAT DECISIONS CAN THE COUNTY BOARD MAKE?

The County Board has up to three (3) days to finalize one of the following decisions in writing: (E.C. §48922 and §48923)

1. Uphold the decision of the local board.
2. Reverse the decision of the local board, in which case, the County Board may direct the local board to expunge (remove) all records of the expulsion from the records of the student and the district.
3. If relevant and material evidence exists which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before local board:
 - a. Remand the matter back to the local board for reconsideration. The County Board may order the student reinstated pending the reconsideration.
 - b. Grant a hearing de novo. If the County Board decides to conduct a hearing, the student and the student's parent or guardian and the local district will be notified of the time, date, and place for such a hearing and their procedural rights.

The County Board's decision is final.

THE FOREGOING IS ONLY AN OUTLINE OF THE PROCEDURE FOLLOWED IN THE APPEAL PROCESS. THE student AND/OR THE student's REPRESENTATIVE SHOULD REVIEW AND BE FAMILIAR WITH THE EDUCATION CODE PROVISIONS, THE DISTRICT'S RULES, AND THE VENTURA COUNTY BOARD OF EDUCATION'S RULES GOVERNING EXPULSION APPEALS.

RIGHT TO HAVE ATTORNEY OR ADVOCATE PRESENT

It is the intention of the Ventura County Board of Education to conduct hearings in a manner which does not require attorneys. Hopefully, this document will adequately enable the appellant to understand the appeal hearing process. However, a legal representative (or professional advocate) may be desired if the procedures are not thoroughly understood or if there is limited English proficiency or difficulty in expression before a group. While attorneys are not required, all parties involved do have a **right** to have an attorney present.

Please contact the Attorney Referral Service of the Ventura County Bar Association at (805) 650-7599 to obtain the name and contact information of an attorney.

PARENTAL OPTIONS/RESPONSIBILITIES UNDER THE COMPULSORY EDUCATION LAW IF EXPULSION IS UPHELD

1. Contact the local district and ask for a copy of its procedures to review and readmit the expelled student once the period of expulsion has ended.

2. If the student has moved to another district, the law requires that the new district be notified of the expulsion or any pending expulsion (E.C. §48915.1 and §48918).
3. A student may apply for admission to a local charter school.
4. A student may apply for admission to a private school at the cost of the parent or guardian.
5. A credentialed teacher may be employed to instruct the student in the appropriate grade level (home tutoring).
6. A request may be made for placement in Gateway Community School. Call (805) 383-4731 for an appointment.

SUMMARY OF TIME REQUIREMENTS IN EXPULSION PROCEEDINGS

The chart below provides the procedural requirements, including timelines, that are relevant to the appeal.

STEP	TIME REQUIREMENT	EDUCATION CODE
Determination of a statutory offense committed	Day 1 of suspension	EC 48900, 48900.2, 48900.3, 48900.4, 48900.7
Suspension; notice of suspension	Not more than 5 school days	EC 48911(d)
Recommendation for expulsion; extension of suspension meeting	Within 5 school days from the date of suspension	EC 48911(g), 48915
Notice of hearing	At least 10 calendar days prior to hearing	EC 48915(b)
Student request for open hearing	Within 5 calendar days prior to hearing	EC 48918(c)
Student request for postponement	Entitled to not more than 30 calendar days; additional days at local board's discretion	EC 48918(a)(1)
District extension of hearing date	Up to 5 school days (for good cause)	EC 48918(a)(3)
Expulsion hearing	Within 30 school days from the date of suspension	EC 48918(a)(1)
Administrative hearing panel or hearing officer recommendation	Within 3 school days from the date of the hearing	EC 48918(e)
Decision of Local Board	Within 10 school days from the date of the hearing, but no later than 40 school days from the date of suspension	EC 48918(a)(2)
Appeal to County Board	Within 30 calendar days following local board's decision to expel	EC 48919
Appellate Hearing	Within 20 school days following filing of a formal request to appeal	EC 48919
Decision of County Board	Within 3 school days of the appellate hearing	EC 48919

Note: The timelines provided above do not take into account any postponements requested by the student or the student's parent/guardian.



NOTICE OF APPEAL FORM

Pupil Expulsion from School District

PLEASE PRINT OR TYPE ALL MATERIAL EXCEPT SIGNATURE

Note: If the pupil is an adult or an emancipated minor, the pupil is filing the appeal as the Appellant and will not need to provide information regarding the parent or guardian. If the pupil is not an adult nor an emancipated minor, the pupil's parent or guardian is the Appellant.

PUPIL'S FIRST NAME		PUPIL'S LAST NAME		DATE OF BIRTH		GRADE	
SCHOOL DISTRICT		SCHOOL		DATE LOCAL BOARD VOTED TO EXPEL MM/DD/YEAR:			
ADDRESS OF THE PUPIL – NUMBER, STREET, APT/UNIT NUMBER, CITY, ZIP CODE							
NAME OF PARENT/GUARDIAN		RELATIONSHIP TO STUDENT		NAME OF PARENT/GUARDIAN		RELATIONSHIP TO STUDENT	
PHONE NUMBER	EMAIL ADDRESS			PHONE NUMBER	EMAIL ADDRESS		
ADDRESS OF THE PARENT/GUARDIAN – NUMBER, STREET, APT/UNIT NUMBER, CITY, ZIP CODE <input type="checkbox"/> Same as pupil <input type="checkbox"/> Different:							
NAME OF REPRESENTATIVE		RELATIONSHIP TO STUDENT		PHONE NUMBER		EMAIL ADDRESS	
ADDRESS OF THE REPRESENTATIVE – NUMBER, STREET, APT/UNIT NUMBER, CITY, ZIP CODE							

1. What are the reasons(s) given by the local board for expulsion? (*Attach a copy of the notice of expulsion*)

2. Why should the expulsion be set aside?

An expulsion may be appealed only on one or more of the four grounds listed below. Check all that apply and give a brief statement of explanation of why you feel you have reason to appeal the expulsion; provide any supporting evidence, if any. Attach a separate sheet if more space is needed.

- ☐ The local board proceeded without or in excess of its jurisdiction.
☐ The local board failed to provide a fair hearing.
☐ There was a prejudicial abuse of discretion in the hearing.
☐ There is relevant and material evidence which could not have been produced previously or which was improperly excluded at the hearing. _____

SIGNATURE OF PARENT/GUARDIAN OR ADULT/EMANCIPATED PUPIL	DATE DELIVERED OR MAILED TO VENTURA COUNTY BOARD
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For information on the Ventura County Office of Education's Expulsion Appeal policy and process, please see Board Policy 5144.3, Administrative Regulation 5144.3 and Exhibit 1 at vcoc.org or you may call 805 383-1902.

For use by County Board of Education Only

Date received by Office of the Secretary, Board of Education: _____ By: _____
Date copy of this notice of appeal was mailed to Respondent: _____ By: _____