

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

The Superintendent or designee shall develop procedures to facilitate the involuntary transfer 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 the schools or programs to which the student could be involuntarily transferred, and the availability of support services and other resources. Recommendations for a disciplinary transfer must be based on an appropriate investigation into the disciplinary infraction, consideration of alternative forms of discipline, and providing the student appropriate due process.

The Superintendent or designee shall ensure that involuntary transfers are made in a non-discriminatory manner.

#### **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 the student 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. 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 10322 - 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 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 from instruction which the pupil is lawfully required to attend and either of the following conditions are met: (Education Code 48432.5)

- a) Other means to improve the student's behavior have failed
- b) 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.
- c) Prior to 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 prior to the transfer. 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)
- d) 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)
- e) 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

unless the governing board of the school district adopts a procedure for yearly review of the involuntary transfer conducted pursuant to this section at the request of the pupil or the pupil's parent or guardian. (Education Code 48432.5).

- f) 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)

### **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)

### **Disciplinary Transfer Special Education and Section 504**

For students identified under the Individuals with Disabilities Education Act or Section 504 of the Rehabilitation Act of 1973, an involuntary/disciplinary transfer is a change in educational placement that may not go forward without complying with procedural safeguards, including a manifestation determination, outlined in Board Policy 8704 and 8705.01.

Legal Reference:

State	Description
Ed. Code 234.1	Monitoring, review, and assessment of anti-discrimination, anti-harassment, anti-intimidation, and anti-bullying 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
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	Description
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

#### Board of Trustees

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