



BARGAINING ADVISORY

AB 420 (Dickinson): Student Discipline

AB 420 Dickinson was signed into law by Governor Brown and became effective on January 1, 2015. The law amends Section 49800 of the Ed Code by removing willful defiance, in certain instances, as a reason that a principal can use to suspend or expel a student from school. Data regarding suspensions and expulsions show willful defiance has been used in a disproportionate manner and has contributed to racial disparities. There are a number of offenses retained as reasons for suspension or expulsion including possession of firearms, threatening to cause physical harm to another person, robbery and other serious matters. The bill sunsets on July 1, 2018 unless another statute is enacted which extends the date.

The following is the pertinent Section of Education Code 48900 that is the subject of the change:

(k) (1) Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, school officials or other school personnel engaged in the performance of their duties.

The following is the change made to Education Code 48900 that changes the way willful defiance can be used:

(k) (2) Except as provided in Section 48910, a pupil enrolled in kindergarten or any of grades 1 to 3, inclusive, shall not be suspended for any of the acts enumerated in this subdivision, and this subdivision shall not constitute grounds for a pupil enrolled in kindergarten or any of grades 1 to 12, inclusive, to be recommended for expulsion. This paragraph shall become inoperative on July 1, 2018, unless a later enacted statute that becomes operative before July 1, 2018, deletes or extends that date.

While Section k (1) regarding willful defiance was not removed from Education Code, Section k (2) made the following changes:

1. Eliminates the ability for a principal to suspend a student from school in grades K-3 for disruptive behavior or willful defiance.
2. Eliminates the ability for a principal to expel a student from school in any grade level for disruptive behavior or willful defiance.

Section k (2) maintains the ability for *a teacher* to suspend a student in any grade level *from class* for the day of the suspension and the following day as per Education Code 48910 below.

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the school site, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent-teacher conference regarding the suspension. If practicable, a school counselor or a



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school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

(c) A teacher may also refer a pupil, for any of the acts enumerated in Section 48900, to the principal or the designee of the principal for consideration of a suspension from the school.

(Amended by Stats. 2004, Ch. 895, Sec. 10. Effective January 1, 2005.)

Recommendations:

Monitor Changes in District Policies

Districts may misinterpret the law and make policy changes greater than those required by the new law. Local Associations should be aware of the requirements of the new statute and be active in protecting rights of unit members. Chapters may wish to demand to bargain/consult on the issue of student discipline and school safety within the parameters of the Educational Employment Relations Act.

Participate in the LCAP

Local Associations should engage in developing and monitoring of the Local Control Accountability Plan relating to school environment issues. Local Associations should work with parents and community members to ensure a safe working and learning environment. Providing resources to teachers and students to support a quality learning environment should be a priority. Programs that are based on the theories of Restorative Justice and Positive Behavioral Interventions and Supports (PBIS) or other similar programs may be implemented. Meaningful professional development on alternative methods of discipline should be provided.

The focus should be on keeping students in school in order to help students succeed. It will also improve school Average Daily Attendance (ADA) enabling the state to send more resources to help implement new programs.

Participate in the Development of School Safety Plan

A component of each school's safety plan is a procedure for discipline. The local association should make sure teachers, counselors and other educators involved in the discipline of students are included in reexamining the procedure in light of the changes in the suspension/expulsion procedures.