

## BOARD POLICY 5116.2: INVOLUNTARY STUDENT TRANSFERS

### Comparison Matrix

#### Section: Students

#### SUMMARY OF UPDATE

**Summary of Update:** The policy was updated to clarify that it specifically addresses involuntary transfers within the district, and now includes a review of available programs for students subject to these transfers. It adds that the Superintendent or designee must ensure such transfers are conducted in a nondiscriminatory manner, in line with new California Department of Education guidance on legal requirements and best practices for both voluntary and involuntary transfers. Furthermore, the policy outlines the procedures for transferring students convicted of violent felonies or firearm-related misdemeanors and provides details on involuntary transfers to continuation education programs or community day schools. Additionally, notice and disclosure requirements have been clarified.

CSBA NOTE: Pursuant to various provisions of the Education Code, a district may involuntarily transfer a student to another school within the district when specific requirements are met. For instance, in order to involuntarily transfer a student pursuant to Education Code 48929, the Governing Board of the district is required to adopt a policy at a regularly scheduled meeting and include notice of the policy in the annual notification to parents/guardians in accordance with Education Code 48980. Accordingly, it is recommended that this policy be adopted at a regularly scheduled meeting and included in the district's annual notice to parents/guardians. For information regarding annual notifications, see BP/E(1) 5145.6 - Parent/Guardian Notifications.

CURRENT VERSION			REVISED VERSION	CSBA MODIFICATIONS and/or NOTES
PARA	Section	Sub-Section	January 10, 2023	
1			The Governing Board desires to enroll students in the school of their choice, <b>but</b> recognizes that circumstances sometimes necessitate the involuntary transfer of <b>some</b> students to another school or program in the district. <b>The Superintendent or designee shall develop procedures to facilitate the transition of such students into their new school of enrollment.</b>	<i>While</i> the Governing Board desires to enroll students in the <i>district</i> school of their choice, <i>it</i> recognizes that circumstances sometimes necessitate the involuntary transfer of <i>a</i> student to another school or program in the district.
				<i>The Superintendent or designee shall develop procedures to facilitate the involuntary transfer of such students.</i>
2			As applicable, <b>when determining the best placement for a student who is subject to involuntary transfer</b> , the Superintendent or designee shall review all educational options	As applicable <i>and as permitted by law</i> , the Superintendent or designee shall review all educational options for which the student is eligible, the student's academic progress and

		for which the student is eligible, the student's academic progress and needs, the enrollment capacity at <b>district</b> schools, and the availability of support services and other resources.	needs, the enrollment capacity at <i>the</i> schools <i>or programs to which the student could be involuntarily transferred</i> , and the availability of support services and other resources.	
			<i>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.</i>	CSBA NOTE: Education Code 234.1 mandates that districts adopt policy as well as a process for prohibiting discrimination which applies to all acts related to school activity or school attendance occurring within a school or under the authority of the district, including discriminatory harassment, intimidation, and bullying, which, as amended by AB 1078 (Ch. 229, Statutes of 2023), includes all acts of the Board and the Superintendent in enacting policies and procedures that govern the district. See BP 0410 - Nondiscrimination in District Programs and Activities.  For more information regarding the legal requirements and recommended best practices governing voluntary and involuntary transfers, see the California Department of Education's (CDE) September 2023 Memorandum, "Overuse and Improper Use of Voluntary and Involuntary Transfers."
3		<del>Whenever a student is involuntarily transferred, the Superintendent or designee shall provide timely written notification to the student and his/her parent/guardian and an opportunity for the student and parent/guardian to meet with the Superintendent or designee to discuss the transfer.</del>	<b>Delete</b>	
		<b><u>Students Convicted of Violent Felony or Misdemeanor</u></b>	<i><b><u>Involuntary Transfer of a Student Convicted of Violent Felony or Misdemeanor Related to Possession of Firearms</u></b></i>	

1		<p>A student may be transferred to another district school if <b>he/she</b> 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 <b>he/she</b> was convicted.</p>	<p>A student may be transferred to another district school if <i>the student</i> 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 <i>the students</i> was convicted. <i>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.</i></p>	<p>CSBA NOTE: Education Code 48929 authorizes a district to involuntarily transfer a student who has been convicted of a violent felony as defined in Penal Code 667.5(c) (including, but not limited to, attempted murder, rape, assault, kidnapping, and robbery) or a misdemeanor associated with possession of a firearm as specified in Penal Code 29805, whenever the student is enrolled at the same school as a student who was a victim of the crime. When a student has been convicted of such a violent felony or misdemeanor, a district is likely to pursue expulsion. However, this policy may be used where the student is not expelled or, if applicable, after the student has been readmitted to the district following expulsion and is enrolled in the same school as the victim. For more information regarding expulsion, see BP 5144.1 - Suspension and Expulsion/Due Process.</p> <p>In order to exercise this authority, Education Code 48929 mandates the Board to adopt, at a regularly scheduled meeting, policy that contains the following provisions: (1) a requirement that the student and the student's parent(s)/guardian(s) be notified of the right to request a meeting with the principal or designee, (2) a requirement that the school first attempt to resolve the conflict using restorative justice, counseling, or other services, (3) the process to be used by the Board to consider and approve or disapprove the recommendation of the principal or designee to transfer the student, and (4) whether the decision to transfer a student is subject to periodic review and the procedure for conducting the review.</p>
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				Even though the district is required to first attempt to resolve the conflict using restorative justice, counseling, or other services, the district may not require the victim to participate in any conflict resolution program or service or subject the victim to any disciplinary action for their refusal to participate in conflict resolution. Additionally, if the victim agrees to participate in a conflict resolution program or service, the district must permit the victim to stop participating at any time without subjecting the victim to any disciplinary action.
2		<p>Before transferring such a student, the Superintendent or designee shall attempt to resolve the conflict using restorative justice, counseling, or other such services. He/she shall also notify the student and his/her parents/guardians of the right to request a meeting with the principal or designee.</p>	<p><i>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.</i></p>	<p>CSBA NOTE: The following paragraph may be revised to reflect district practice. As specified above, in order to involuntarily transfer a student, Education Code 48929 requires the Board to adopt a policy that includes, but is not limited to, a description of the process to be used by the Board when considering and taking action on the recommendation to transfer a student, and a description of the process, if any, for periodically reviewing the transfer.</p> <p>Education Code 35146 provides that the Board must meet in closed session to address any student matter that may involve disclosure of confidential student information, or to consider a suspension, disciplinary action, or any other action against a student except expulsion. If a written request for open session is received from a parent/guardian or adult student, it will be honored to the extent that it does not violate the privacy rights of any other student. See BB 9321 - Closed Session.</p>

3		Participation of the victim in any conflict resolution program shall be voluntary, and he/she shall not be subjected to any disciplinary action for his/her refusal to participate in conflict resolution.	Delete	
4		The principal or designee shall submit to the Superintendent or designee a recommendation as to whether or not the student should be transferred. If the Superintendent or designee determines that a transfer would be in the best interest of the students involved, he/she shall submit such recommendation to the Board for approval.	Delete	
5		The Board shall deliberate in closed session to maintain the confidentiality of student information, unless the 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 decision shall be final.	The Board shall, <i>in accordance with Board Bylaw 9321 - Closed Session</i> , deliberate <i>and vote on the recommendation, as well as any subsequent recommendation to permit the student to transfer back to the student's original school</i> , 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.	
6		The decision to transfer a student shall be subject to periodic review by the Superintendent or designee.	Delete	
7		The Superintendent or designee shall annually notify parents/guardians of the district's policy authorizing the transfer of a student pursuant to Education Code 48929.	Delete	
		<b>Other Involuntary Transfers</b>	<b>Involuntary Transfers</b> <i>to a Continuation Education Program or Class within the District</i>	

1		Students may be involuntarily transferred under either of the following circumstances:	Delete	
			<i>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:</i>	CSBA NOTE: This section is for use by districts that maintain high schools. Education Code 48432 requires such districts to establish and maintain continuation education schools or classes whenever there are any high school students residing in the district who are subject to compulsory continuation education. For language fulfilling this requirement, see BP/AR 6184 - Continuation Education. If a district seeks to involuntarily transfer a student to a continuation school, Education Code 48432.5 mandates the Board to adopt rules and regulations for doing so and specifies requirements that must be included in those rules and regulations.
	1	If a high school student commits an act enumerated in Education Code 48900 or is habitually truant or irregular in school attendance, he/she may be transferred to a continuation school.	<i>1. Other means to improve the student's behavior have failed</i>	
	2	If a student is expelled from school for any reason, 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, he/she may be transferred to a community day school.	<i>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.</i>	
			<i>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.</i>	CSBA NOTE: In order to involuntarily transfer a student to a continuation education program or class, Education Code 48432.5 requires the Board to (1) notify the student and the student's parent(s)/guardian(s) of the right to request a meeting with the Superintendent or designee, (2) provide the student and the student's parent(s)/guardian(s) with the specific facts and reasons for the proposed

			<p><i>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.</i></p>	<p>transfer, including all documents relied upon, (3) allow the student or the student's parent(s)/guardian(s) to question any evidence or witnesses presented, and (4) permit the student and the student's parent(s)/guardian(s) to present evidence, including witnesses, on the student's behalf. The student must also be allowed to bring one or more representatives to the meeting. While Education Code 48432.5 uses the term "meeting," the Court of Appeals in Nathan G. v. Clovis Unified School District found that the meeting is an "adversarial hearing grounded in due process." Therefore, districts may want to treat an involuntary transfer to a continuation education program or class in a manner similar to expulsions and are advised to consult CSBA's District and County Office of Education Legal Services or district legal counsel as appropriate. For more information regarding expulsions, see BP 5144.1 - Suspension and Expulsion/Due Process.</p>
			<p><i>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.</i></p>	
			<p><i>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.</i></p>	<p>CSBA NOTE: Education Code 48432.5 prohibits an involuntary transfer to a continuation school to extend beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred unless the Board adopts a procedure for yearly review of the involuntary</p>

					transfer at the request of the transferred student or the student's parent(s)/guardian(s). In order to minimize the length of involuntary transfers, it is recommended that a district not extend the length of an involuntary transfer pursuant to Education Code 48432.5 beyond the end of the semester following the semester during which the acts leading directly to the involuntary transfer occurred. The following paragraph may be revised to reflect district practice.
				<i>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.</i>	
				<b><u>Involuntary Transfers to a Community Day School within the District</u></b>	
				<i>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.</i>	CSBA NOTE: This section is for use by districts that maintain community day schools. Education Code 48660-48666 authorize districts to establish community day schools for expelled students, certain probation-referred students pursuant to Welfare and Institutions Code 300 or 602, and students referred by a school attendance review board or through another formal district process. See BP/AR 6185 - Community Day School. If a district seeks to involuntarily transfer a student to a community day school, Education Code 48662 mandates the Board adopt policy that provides procedures for the involuntary transfer of students to the school.
				<b><u>Notice, Information, and Reports</u></b>	
				<i>The Superintendent or designee shall include notice of this policy in the annual notification to parents/guardians in accordance with Education Code 48980.</i>	



			<p><i>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.</i></p>	<p>CSBA NOTE: The following paragraph may be revised to reflect district practice.</p> <p>Pursuant to Education Code 48985, when 15 percent or more of students enrolled in a school speak a single primary language other than English, all notices and reports sent to the parents/guardians of these students must also be written in the primary language and may be answered by a parent/guardian in either language. Education Code 48985 requires CDE to notify districts, by August 1 of each year, of the schools and the languages for which the translation of notices is required based on census data submitted to CDE in the preceding fiscal year.</p>
			<p><i>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.</i></p>	
			<p><i>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.</i></p>	<p>CSBA NOTE: For purposes of any involuntary transfer, Education Code 48853.5, as amended by AB 740 (Ch. 400, Statutes of 2022), requires that a district provide the same parent/guardian notices, documents, and information to the educational rights holder, attorney, and county social worker of a foster youth, and to the tribal social worker, and if applicable, county social worker of an American Indian student. See AR 6173.1 - Education for Foster Youth and BP 6173.4 - Education for American Indian Students.</p>

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