



CHAPTER 2: Student Discipline

A. What is school discipline?

School discipline includes all the different ways that a school might respond to student behavior problems at school such as detention, student contracts, loss of privileges, picking up trash, suspensions, expulsions, and involuntary school transfers.

Suspensions, expulsions, and involuntary transfers are the most severe forms of punishment. They result in a student's removal from school and, in cases of expulsion and involuntary transfer, may result in a change of school to an alternative education program within the same school district or outside the school district. Studies have shown that in many schools students of color and vulnerable students are more likely to be punished using these more serious actions.

However, research shows that there are better ways to help students when they make mistakes or act up in school. These better ways have been shown to create a more positive school experience than suspensions and expulsions. Some examples include positive behavioral interventions and supports (PBIS) and restorative justice approaches as well as socioemotional learning and trauma informed practices that improve behavior while helping students stay in school.

B. What is a suspension?

A **suspension** is when a student is taken out of class or school temporarily, for no more than five school days in a row and no more than 20 school days during the whole school year. If a student is suspended they are

not allowed to attend their regular classes. A suspension may be in-school or out of school. If the suspension is in-school, the student goes to school but is not allowed to attend the student's regular class or classes. If the suspension is out-of-school, the student is not allowed to go to school at all during the suspension. After the suspension is over, a student returns to their regular school and classes. A suspension is NOT a transfer to another school.

A student may only be suspended if:

- The student is in trouble for something listed under Education Code § 48900. **See Appendix for a complete list of the 48900 offenses under the CA Education Code.**
- The reason the student is in trouble is related to a school activity
- The school has met all the legal requirements
- And, in general, a student may be suspended only if the school has tried other means of fixing the student's behavior

However, there are situations when "other means" of fixing the student's behavior is not required:

- Caused, attempted to cause, or threatened to cause physical injury to another person
- Willfully used force or violence upon another person, except in self-defense
- Possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object unless the student obtained written permission to possess the item

- Possessed, used, sold, or otherwise furnished, or been under the influence of, a controlled substance, an alcoholic beverage, or an intoxicant of any kind
- Offered, arranged, or negotiated to sell a controlled substance, an alcoholic beverage, or intoxicant and either sold, delivered, or furnished another liquid, substance, or material and represented the liquid, substance, or material as a controlled substance, alcoholic beverage or intoxicant
- OR if the principal or superintendent determines that the student being at school causes a danger to persons

A suspension generally requires four steps and this process must be followed by the school. If the school fails to do any of the steps, it may be breaking the law and violating your child’s rights.

If your child ever goes through a suspension, here is what the school must do:

During the suspension process, a school MUST follow these legal procedures:

- 1) **Inform the student** of the reason why they are in trouble and the evidence against the student. This happens during an informal meeting with the principal or someone the principal picks as a representative.
- 2) **Contact the parent** in person or by telephone at the time of suspension.
- 3) **Give the student the chance to defend his/herself.** A student must be given the opportunity to explain their side of what happened, question the evidence and give any evidence to defend their self.
- 4) **Notify the parent in writing** about the suspension and the reasons for the suspension. The notice should identify the education code section that was violated, the specific facts regarding the violation, how many days the student is suspended for, and when the student may return to school. **If your primary language is not English, the notice should be translated for you.**

If your child has a disability, he or she may be entitled to additional protections before being suspended from school. If you suspect your child may have a disability, you have the right to request an evaluation to see if he/she qualifies for special education &/or 504 services.

See Chapter 7: Children with Disabilities for more information.

C. How can I advocate for my child at the time a suspension is being considered?

If your child is being suspended, get all the information that you can about the reasons the school wants to suspend your child. Then ask the school to try some other type of punishment or response instead of a suspension.

Here are some ideas of other options (“other means”) to request:

- A meeting with you, your child, and other people from your child’s school
- A referral for your child to see the school counselor, psychologist, social worker, child welfare attendance staff, or other support service staff for counseling or other help
- The help of school study teams, guidance teams, resource panel teams, or other similar teams to work with you and your child to review your child’s behavior and come up with an individualized plan to fix the behavior
- A referral for your child to have a complete psychosocial or psychoeducational assessment, to see if your child needs additional supports including an individualized education plan (IEP) or 504 plan due to known or unknown disabilities
- Enrollment of your child in a program for teaching anger management, positive behavior or decision-making
- A restorative justice program.
- A positive behavior support approach with many levels of help that happen during the school day on campus
- After-school programs that provide positive activities and promote positive behaviors at your child’s school and in your community

- Community service including cleaning around the community or school campus, helping teachers, community organizations or youth assistance programs

If your school does not offer some of these programs or tells you they cannot offer these types of solutions, do not stop there.

Ask the school who you can talk to at the school and/or district to get more information about the current programs and services available for students and how you can get involved to get more services and supports for your child and their school.

Learn more about the types of practices you would like to see at your school, speak with other parents, and try to make positive change happen for the benefit of all children at your child's school! **See Appendix for sample activities** that can help you start a discussion with other parents at your school about suspensions and alternatives to suspension.

D. Can I challenge a suspension? If so, for what reasons and how do I begin?

Yes, you can challenge a suspension by appealing it! To appeal a suspension, first make sure to request your child's school district's policies and procedures for appealing a suspension.

Consider challenging your child's suspension if any of the following occurred:

- Your child was suspended without a pre-suspension meeting
- Your child was not given the chance to tell his/her side of the story
- Your child was suspended for something he/she did not do
- Your child was suspended for something not related to a school activity
- Your child was suspended for something not listed in the education code
- The school suspended your child without attempting other means of correction first
- You were not contacted at the time of the suspension by phone or in-person
- You were not notified in writing of the suspension

- You were not notified of the suspension in your first language
- You disagree with the number of days your child has been suspended
- Your child was suspended for more than 5 school days in a row
- Your child was suspended for more than 20 total school days during the current school year

If your school district has rules for appealing a suspension, you must follow those requirements.

If your school district does not have rules, you can write a letter to the Superintendent saying:

- That you want to appeal your child's suspension
- The reasons you are appealing (for example, your child was suspended without a meeting or for something your child did not do)
- Include what it is you want the school to do (for example, remove the suspension from your child's school records or provide your child with additional help to catch up on work your child missed)
- Sign and date your letter
- Make a copy of your letter and keep it for your records

See Appendix for a sample letter to the Superintendent to appeal a suspension.

E. What can I do if my suspension appeal is denied?

- 1) **Add more information to your child's school records:** You have the right to add a written letter or reply to how the school punished your child in your child's "cumulative education file." This is important because your child's record will show your side of the story to anyone who reviews your child's record including when your child changes schools.
- 2) **Challenge your child's school records:** You can also challenge what is in your child's school records (including a suspension notice) by filing a written request with the superintendent of the district to correct or remove any information in your child's records if the information:
 - has mistakes

- is based on people’s opinions and not facts
- is a conclusion or inference outside of the observer’s area of competence
- is not based on what a person actually saw
- is misleading
- violates the privacy or other rights of your child

See Appendix for Sample Letter Challenging Content of Records.

F. What is an expulsion?

An expulsion generally means a student is not allowed to attend any of the traditional schools within a school district for a period of time that can be up to one calendar year (for the most serious behavioral offenses).

G. How does a school decide when to expel a student?

In general, a student may **ONLY** be expelled **IF**:

- He or she committed an act listed under Education Code § 48900. **See Appendix a complete list of 48900 offenses under CA Education Code.**
- The school has tried many times to fix the behavior in other ways (“other means”) but they have failed OR other ways of correcting the behavior are not possible
- The physical safety of the student or others is at risk if the student stays in that school
- The school has complied with all the proper legal procedures including notice, timeline, and hearing requirements

For some offenses (sometimes referred to as zero tolerance offenses), schools must recommend an expulsion for a student. A school **MUST recommend expulsion** for the following offenses:

- 1) Possessing, selling, or otherwise furnishing a firearm (except an imitation firearm)
- 2) Brandishing a knife at another person
- 3) Unlawfully selling a controlled substance
- 4) Committing or attempting to commit a sexual assault or sexual battery
- 5) Possession of an explosive

However, for all other offenses, school personnel have discretion and can decide not to recommend a student for expulsion.

Once a recommendation to expel a student is made by a school, the following must be followed as part of the expulsion process:

When a student is recommended for expulsion, a school district MUST follow these legal procedures:

- 1) Notify the parent and student in writing of the recommendation to expel the student and that an expulsion hearing will be held at least 10 calendar days before the expulsion hearing.

This notification must include:

- a. The date and place of the hearing
- b. A statement of what happened and what the student is in trouble for doing including the education code section that was violated and the specific facts regarding the violation
- c. A copy of the school district’s disciplinary rules
- d. A notice of the parent, guardian, or student’s obligations when requesting enrollment in another school district
- e. Notice of the opportunity for the student or the student’s parent or guardian to:
 - i. appear in person or be represented by an attorney or by a non-attorney adviser at the hearing
 - ii. look at and get copies of all documents to be used at the hearing
 - iii. challenge and question all witnesses who will speak at the hearing
 - iv. question all other evidence used at the hearing
 - v. present verbal evidence and documents on the student’s behalf, including having people speak in support of the student at the hearing as witnesses

- 2) The Governing Board of the school district must hold a hearing within 30 school days of the date in which the school determined that the student’s behavior violated the Education Code.

- 3) The Governing Board must make a decision within 10 schooldays after the hearing and send the parent and student a written notice of that decision in the parent's native language.

The notice must include:

- a. Information about the student's right to appeal the expulsion to the county board of education within 30 calendar days of the expulsion decision
- b. Information about the alternative educational placement to be provided to the student during the expulsion term
- c. A rehabilitation plan with specific details on the requirements the student must meet in order to be considered for readmission to his former school after the expulsion term is served

It is very important that all these steps during the expulsion process are followed by the school district. If your child has a disability, he or she may be entitled to additional protections before they may be recommended for expulsion or expelled from school including a manifestation determination. **See Chapter 7: Children with Disabilities for more information.** If your child is recommended for expulsion and the school district does not follow any of these steps or provide you and your child the required information, the school district may be in violation of the law and you should seek legal services to ensure your child's rights are protected.

H. My child was recommended for expulsion, where do I start?

If your child was recommended for expulsion you should:

1. Request a copy of all documents related to your child's expulsion and all documents that will be used against your child at the expulsion hearing; request that the documents be provided to you before the expulsion hearing so you can have enough time to carefully review and prepare. **See Appendix for Sample Request for Expulsion Packet.**
2. Speak to your child to get his or her version of what happened and keep a record of all communications with school and District staff.

3. Check your mail regularly for any notices regarding the expulsion.
4. If you are invited to a meeting by the school or District, make sure to ask what type of meeting it will be and the purpose of the meeting. You may be invited to:
 - An extension of suspension conference
 - A manifestation determination IEP meeting
 - A change of placement IEP meeting
 - A meeting to discuss whether you and your child wish to "agree" (or "stipulate") to the expulsion
 - The expulsion hearing
5. Consider obtaining legal help, a community advocate, or other support person with experience in student discipline cases to attend any meetings with you.
6. Make sure your child is included every step of the way and that he/she is also invited to join and attend any meetings with you.

I. What is a stipulated expulsion agreement, and should I enter into that agreement?

A stipulated expulsion agreement is a written agreement that is often created by a school district and given to a student and/or parents prior to an expulsion hearing. These documents provide that the student/parent "gives up" or waives the right to an expulsion hearing and the right to appeal the expulsion decision and "agrees" ("stipulates") to be expelled.

Most of the time, it is not advisable that you or your child enter into a stipulated expulsion agreement unless you have had the chance to talk with an attorney and weigh the good and bad of signing the agreement. These agreements are often created in ways that DO NOT help ensure the best educational outcomes for students.

Most stipulated expulsions require that your child enroll in an alternative school where they will likely not have the same access to courses, extracurricular activities and other services that they would in their regular school.

If you are invited to join in a meeting to discuss agreeing to a stipulated expulsion agreement, you may refuse

to attend and request that an expulsion hearing be scheduled for your child. If you choose to attend, it is important that your child attends the meeting with you, that you both fully understand the agreement, and that you carefully consider the impact of giving up your child's right to a hearing and the right to appeal the expulsion decision.

The agreement must be knowingly and voluntarily entered into in order for the agreement to be valid. If you do not feel that you have a choice whether or not to sign the agreement or that you do not fully understand what the agreement says, you and your child should not sign the agreement.

If English is not your primary language, you are entitled to have an interpreter and should request that one be provided to you. You should also request that any documents be provided to you in a language you can understand and that they be properly translated for you in your primary language.

In addition to waiving a student's rights to a hearing and to appeal an expulsion decision, stipulated expulsion agreements often include a list of requirements and conditions a student must complete and follow to be re-admitted (returned) to the school they were expelled from in the future. These set of requirements within the agreement, are what make up a "rehabilitation plan".

Rehabilitation plans are rarely made to fit the individual needs of the student being expelled. Many school districts will use a general form and require that all students complete the same conditions even if it does not address the student's behavioral issue or cannot be completed by the student within the expulsion term. This is a problem because an un-individualized rehabilitation plan within a stipulated agreement could hurt the chances that a student has of returning to their school to complete their education. If you are thinking about signing a stipulated agreement, you should consider speaking to an attorney.

If you determine that a stipulated expulsion agreement is in your child's best interest after considering the above, carefully review the agreement to make sure that reasonable rehabilitation plan requirements are included. Examples of some changes you may want to request include:

- Counseling or other supports more closely connected to your child's needs
- A reasonable credit completion requirement based on the length/term of expulsion and the program or placement's ability to provide instruction
- A reasonable percentage improvement in attendance based on your child's attendance history
- Specificity and clear language on all readmission requirements including the date your child will be eligible to return to their prior school
- Additions to any information and claims against your child within the statement of the agreement, or removing any statements that might not be true
- A shortened expulsion term (for example, if your child was recommended for expulsion for more than a semester, you may want to insist that the agreement include that your child will be expelled for a semester only)
- A requirement that the school will remove ("expunge") any record of the expulsion from your child's cumulative education file upon successful completion of the expulsion term under the agreement

J. What is a waiver and how should I decide if I should sign one?

A waiver is when a person gives up a specific legal right or entitlement. Schools/Districts may present waivers to parents during the discipline process such as a waiver of the right to receive at least 10 calendar days of notice prior to an expulsion hearing, a waiver of the right to an expulsion hearing, a waiver of the right to translated documents, or a waiver of the right to appeal the expulsion to the county board of education.

It is important that you DO NOT sign a waiver if you do not agree to give up the specific rights that the waiver addresses.

For example, many times schools fail to send advance written notice to parents about expulsion hearings. Advance written notice is required 10 days prior to an expulsion hearing by law and this constitutes one of many crucial procedural rights that parents and students have. When a school fails to comply with a requirement like this one, they may present a waiver

for you to sign in which you give up your rights such as, in this example, your right to receive timely written notice. In making your decision to sign a waiver, it is important that you understand the waiver of rights fully and that you are in full agreement with what it says before you sign. Do not feel you have to sign any documents during a meeting with school or District staff. It is your right to carefully look at and review all documents presented to you. You can always request to take the documents home with you to review and turn them in to staff at a later time if you determine it is in your and your child's best interest to do so.

K. What happens while a student is waiting for an expulsion hearing?

Students are generally suspended before they are recommended for expulsion. A student may only be suspended for 5 school days in a row unless there is a recommendation for expulsion. Even when a student is recommended for expulsion, District staff must invite the parent and student during the first 5 days of suspension to participate in a conference to discuss whether to extend the suspension beyond 5 school days if they want the student to stay suspended until the expulsion hearing.

At this meeting it has to be decided if the student staying at the school would cause a danger to people, or property or a threat of disrupting the instructional process. If the student's presence at school would not cause a danger to people or property or disrupt

instruction, then the suspension should not be extended and the student should be allowed to continue to attend their school until the expulsion hearing is held.

Sometimes parents and students are not included in the way that the law requires or given an opportunity to work with the school to come up with a solution that will lead to a better result for the student.

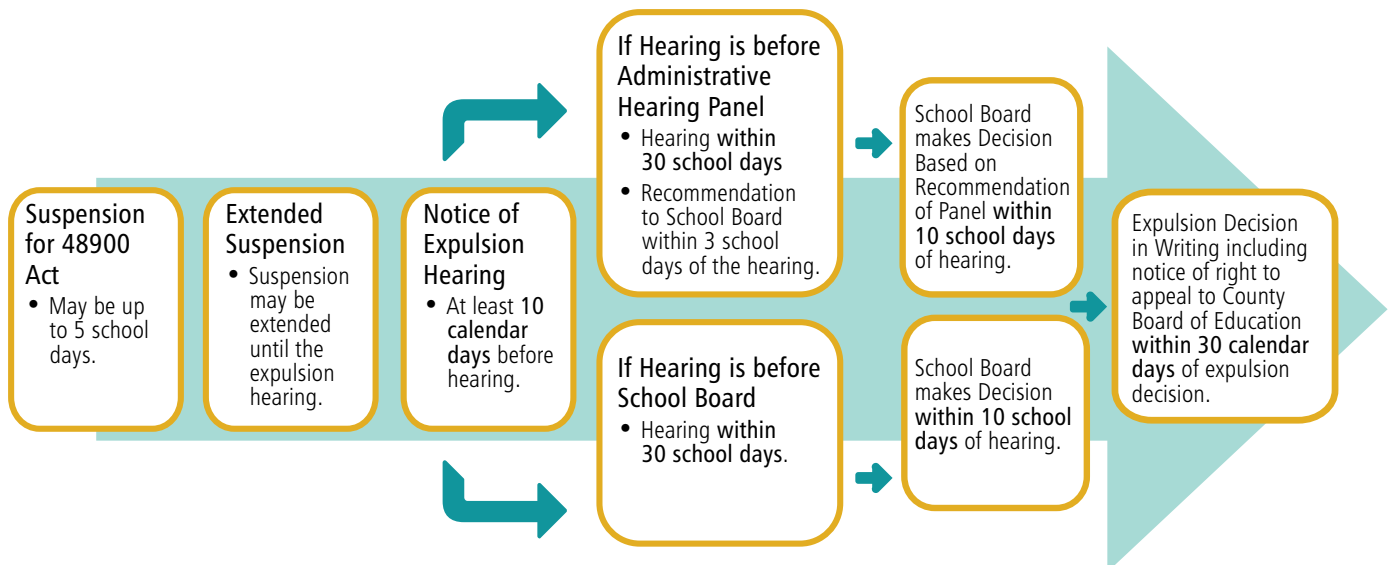
A family may be told:

- The child is going to be expelled "no matter what" so there is "no point in going to hearing"
- The student must stay home until the date of the hearing
- The hearing will be scheduled at a later date
- They should just agree to the expulsion so that the student can attend school somewhere else right away and not have to wait for a hearing

Do not feel you must accept these statements. If the District or school seems to be rushing or speeding through the process with you, slow them down and request that they send you any options that they would like you to think about in writing and that you will let them know if you think any of the options are okay with you. If your child is suspended more than 5 school days while they are waiting for their expulsion hearing, consider appealing the extended suspension to the Superintendent stating the reasons you disagree.

L. How do I prepare for my child's expulsion hearing?

The following timeline illustrates what may happen before and after your child's expulsion hearing:



In some school districts expulsion hearings are heard by an administrative panel, which makes a recommendation to the School Board based on the evidence shown at the expulsion hearing regarding whether or not the student should be expelled. In other school districts expulsion hearings are heard directly by the School Board.

Whether your hearing is before an administrative panel or the School Board, it is very important that you attend the hearing and are prepared to challenge the recommendation to expel your child. Below are some tips for preparing for the expulsion hearing.

Prepare for the expulsion hearing by:

- Requesting your child's "cumulative education file" and reviewing it for any information you believe will help defend your child. This could include reports of other issues impacting your child such as bullying or unaddressed disabilities. It could also include documents that show positive things about your child such as a good grades, regular school attendance, and few disciplinary issues.
- Requesting and reviewing the "expulsion packet" (all documents to be used in support of the recommendation to expel your child at the hearing)
 - Review these records and identify the persons involved to help you get ready for the hearing by identifying who the school may present as witnesses
 - If witness statements are included, carefully review the statements made and try to figure out if it is based on things that the person really saw or if it is based solely on rumors or things that they heard other people say. If based on rumors, be ready to argue that the person does not have "personal knowledge" of what happened and that their statements should not be included.
- Identifying any witnesses and/or evidence that you would like to include at the hearing
 - People who are close to your child and can say good things about them (for example, a coach, supportive teacher, pastor, neighbor, family friend, etc.)
 - Someone who is providing special treatment or supports to your child and can say good

things about your child and your child's needs (for example, a mental health case manager, a doctor, or other caseworker)

- Written statements by people who know your child and are willing to provide positive "character statements" in their support (although they may not be able to attend and/or testify at the expulsion hearing)
 - A list of the kind of supports available at the school and/or within your community, that you would like your child to have and that you feel would be better than expulsion
- Planning and writing down your arguments for the hearing. These can include:
 - Requests for other means of correction that are possible, appropriate, and do not involve expulsion
 - Explaining why your child is not a danger to themselves or others
 - Saying what things the school did that were wrong and violated your rights and the rights of your child along the expulsion process such as:
 - Bad notice
 - No notice
 - Language access issues (Not giving you an interpreter or notices in your main language)
 - Timeliness of records and other important documents received
 - They did not hold the expulsion hearing within 30 school days
 - They did not give you and your child at least 10 calendar days of notice of the hearing
 - They did not give you any of the documents/records you asked for

M. What are the possible outcomes of an expulsion hearing?

- The student is **not expelled** and is allowed back at his or her school
- **Suspended expulsion**, which means the student is expelled, but the student is allowed to go to school at their same school or another alternative

school or program within the District, but is on a probationary status. Being on a probationary status can include conditions such as a behavioral contract, required counseling or other supports, or improved attendance and grades. If the student gets into trouble or violates the education code during the “suspended expulsion” term, the school district may immediately enforce the expulsion order and expel the student without a hearing.

- **Expulsion** from all traditional schools for a term of one calendar year or less and a transfer to an alternative school or program (within or outside of the school district).

N. My child was expelled by the school district’s Governing Board from all comprehensive schools in the district, how can I appeal the expulsion decision?

If you believe your child should not have been expelled, you can appeal to the County Board of Education.

You can appeal with or without a lawyer, but it is very important that you strictly follow your county office of education’s policies for filing an expulsion appeal to make sure that your appeal is sent without delays that could risk your opportunity to appeal.

In general, the expulsion appeal process includes:

When appealing the School District’s Decision to Expel, YOU have to:

- 1) **File the appeal** with the County Board of Education within 30 calendar days of the expulsion decision. **See Appendix for Sample Notice of Appeal.**
- 2) **Request full transcript and complete record** of the expulsion proceedings from the District to be provided to the County Board of Education. **See Appendix for Sample Hearing Transcript Request Letter.** You must be provided the transcript of the expulsion hearing you requested within 10 schooldays of your request.
- 3) **Prepare and send any written arguments** in support of your grounds for appeal.
- 4) **Prepare to make your arguments in person** at the hearing before the County Board.

Grounds for appealing an expulsion include:

- 1) The Governing Board acted without or in excess of its jurisdiction (for example, the board held the hearing beyond the time limits allowed under the law or expelled the student without a hearing)
- 2) The student did not have a fair hearing before the governing board (for example, the board did not let the student have witnesses, testimony, evidence, etc.)
- 3) The Governing Board committed a prejudicial abuse of discretion (for example, the board chose to expel without proper evidence)
- 4) Relevant and very important evidence could not have been given or was wrongly excluded at the hearing

When the county board of education reaches a decision, it will be a final decision. A written notice of the decision must be given to the parent and the governing board of the district. To dispute that decision, you would have to file a lawsuit in court. This is a complicated process and you should talk to a lawyer about it if you are interested in this.

O. Are there other ways I can have an impact? I do not think suspensions and expulsions help students improve behaviorally or academically in any way.

If you believe your school relies too much on negative punishment practices, especially suspensions and expulsions, there are many ways to make a difference!

Here are some ideas:

- 1) **Look at the suspension and expulsion data for your child’s school**
 - a. How does your child’s school compare to other schools?
 - b. Are certain groups of students getting in trouble more than others?
 - c. What are the most common things that students are in trouble for?
- 2) **Learn more about alternatives to discipline such as:**

a. **Restorative Justice:** Restorative justice focuses on fixing relationships instead of blaming others and punishing students. Restorative Practices, inspired by this philosophy of restorative justice, are important to building community and for responding to student's acting up in school through honest and clear conversation, the student and school working together and understanding each other's point of view, and making things right. Schools that use Restorative Practices must have flexibility in school policies and practices.

b. **Positive Behavioral Intervention and Supports (PBIS):** In the past, schoolwide discipline has focused mainly on reacting to specific student misbehavior by implementing punishment-based strategies including loss of privileges, office referrals, suspensions, and expulsions. Research has shown that this type of punishment, especially when it is used differently for different people and without using positive ways to correct bad behavior, does not work. Introducing, modeling, and reinforcing positive social behavior is an important step of a student's educational experience. Teaching good behavior and rewarding students for positive behavior is much more effective than waiting for bad behavior to happen.

3) **Talk to other parents and think about joining a parent group or parent advisory committee** and raise your concerns during those meetings. Examples of parent committees include:

a. **School Site Council:** The school site council (SSC) is a group of teachers, parents, other school district employees, and students that works with the principal to create, review and evaluate school programs and school budgets. The members of the site council are generally elected by other parents. The SCC makes decisions on matters such as parent engagement, safety and discipline.

b. **Migrant Parent Advisory Council:** Migrant Parent Advisory Councils provide input to school districts about how to improve

services and supports for students in the Migrant Education Program. The Migrant Education Program offers supplemental educational programs for migrant children, ages three to 21, to reduce the impact of educational disruption resulting from the repeated moves of migrant families following the harvesting cycle.

c. **District English Learner Advisory Council (DELAC):** The purpose of the DELAC is to advise the Superintendent on programs and services for English learners including helping to create, review, and update the Local Control and Accountability Plan (LCAP). In addition to the DELAC, your school may have an ELAC which serves a similar function at the school site level.

d. **Local Control Accountability Plan (LCAP) Advisory Council:** A parent advisory committee must be formed to provide advice to each school district about the LCAP. **See Chapter 8 for more information on School Funding and the LCAP.** These advisory committees can be newly formed or drawn from existing parent advisory groups, but they must include representation of students in need (e.g., low income, English learners, and foster youth). This is one way that parents can look at how schools are spending money to deal with discipline issues and make their voices heard about how the money should be spent.

4) **Consider telling your School Board:** School board meetings are open to the public and board members are accountable to the public for the performance of their schools; they have to make sure that students get the best education for the tax dollars spent.

Practice! See the Appendices for some sample activities for parent groups including "How to inspire and lead with clarity" and "How to practice advocating for non-punitive discipline practices". ■