



Orange County Board of Education

Expulsion Appeal Hearing Procedures

The order of the hearing shall be as follows:

1. President of the Board opens the hearing
2. Student Services representative makes a brief summary
3. Presentation for the pupil
(limited to 5 minutes unless the President of the Board determines that more time is warranted)
4. Presentation for the district
(limited to 5 minutes unless the President of the Board determines that more time is warranted)
5. Closing remarks from the family (limited to 2 minutes) OPTIONAL
6. Closing remarks from the district (limited to 2 minutes) OPTIONAL
7. Board members ask questions of the family and district
8. President of the Board concludes question portion of the hearing
9. Board deliberates which may include closed session with counsel
10. Board makes decision
11. President of the Board concludes hearing

The review of the expulsion decision is limited to the following questions:

1. Whether the governing board acted without, or in excess, of its jurisdiction
2. Whether there was a fair hearing before the governing board
3. Whether there was prejudicial abuse of discretion in the hearing
4. Whether there was relevant material evidence which - in the exercise of reasonable diligence - could not have been produced, or which was improperly excluded, at the hearing before the governing board

CA Education Code 48919: Expulsion Appeals to County Board of Education

If a pupil is expelled from school, the pupil or the pupil's parent or guardian may, within 30 days following the decision of the governing board to expel, file an appeal to the county board of education which shall hold a hearing thereon and render its decision.

The county board of education shall hold the hearing within 20 school days following the filing of a formal request under this section and shall render a decision within three school days of the hearing, unless the pupil requests a postponement.

The period within which an appeal is to be filed shall be determined from the date a governing board votes to expel even if enforcement of the expulsion action is suspended and the pupil is placed on probation pursuant to Section 48917. A pupil who fails to appeal the original action of the board within the prescribed time may not subsequently appeal a decision of the board to revoke probation and impose the original order of expulsion.

The county board of education shall adopt rules and regulations establishing procedures for expulsion appeals conducted under this section. The adopted rules and regulations shall include, but need not be limited to, the requirements for filing a notice of appeal, the setting of a hearing date, the furnishing of notice to the pupil and the governing board regarding the appeal, the furnishing of a copy of the expulsion hearing record to the county board of education, procedures for the conduct of the hearing, and the preservation of the record of the appeal.

The pupil shall submit a request for a copy of the written transcripts and supporting documents from the district simultaneously with the filing of the notice of appeal with the county board of education. The school district shall provide the pupil with the transcriptions, supporting documents, and records within 10 school days following the pupil's request. The pupil shall immediately file suitable copies of these records with the county board of education. (Renumbered and Amended Stats. 1983, Ch. 498)

**ORANGE COUNTY DEPARTMENT OF EDUCATION
EDUCATIONAL SERVICES
STUDENT SERVICES**

PROCEDURES AND TIMELINES FOR EXPULSION HEARINGS

1. Student, parent, or guardian may file an appeal with the Orange County Board of Education (OCDE) within 30 days following the decision of the local district governing board to expel.
 - A. Upon receiving the appeal, the Orange County Board of Education will set a hearing date which will be within 20 school days following the filing of a formal request.
 - B. A notice of the hearing date and time will be provided to the student, parents, and the governing board of the district by certified mail.
 - C. In accordance with Education Code 48921, it shall be the responsibility of the pupil to submit a written transcription (record) of proceedings of the local school board expulsion hearing for review by the county board in accordance with the timelines established for the appeal hearing date.
 - D. The pupil and the school district may submit a written argument or an appeal brief to the Orange County Department of Education in accordance with the timelines established for the appeal hearing date.
 - E. The Student Services Office shall send a copy of the pupil argument and the school district's argument and all other filed documents to the local school district and the pupil.
 - F. If the pupil or the school district fails to file a written transcript of the record of the proceedings of the school board's expulsion hearing or written argument or an appeal brief in accordance with the timelines established for the expulsion appeal hearing, then the Orange County Board of Education may, in its discretion, continue the expulsion appeal hearing to the next regularly scheduled board meeting or to a special board meeting.

2. Procedures for the conduct of the hearing:
 - A. The hearing shall be held in closed session unless the student requests, in writing, at least 5 days prior to the day of the expulsion appeal hearing, that the hearing be conducted in a public meeting. (Education Code 48920)
 - B. The review of the Orange County Board of Education of the decision by the local school district's governing board shall be based on the record of the hearing before the school district and shall be limited to the following questions:
 1. Did the governing board act without or in excess of its jurisdiction?
 2. Was there a fair hearing before the governing board?
 3. Was there prejudicial abuse of discretion in the hearing?
 4. Is there relevant and material evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the governing board? (Education Code 48922)

C. The following procedure shall be followed at the expulsion appeal hearing:

1. Board President opens the hearing and the Student Services representative briefly summarizes case
2. Presentation by the pupil, parent/guardian/caregiver, or designee
3. Presentation by the district
4. Closing remarks from the pupil, parent, or designee
5. Closing remarks from the district
6. Board members question the pupil, parent/guardian/caregiver and/or the district at their discretion
7. Board discussion and/or deliberation
8. Board makes decision regarding the case
9. Hearing concluded by the Board President

D. The decision of the Orange County Board of Education shall be limited as follows:

1. Where the Orange County Board of Education finds that 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 the governing board, it may do either of the following:
 - b. Remand the matter to the governing board for reconsideration and may in addition order the student reinstated pending such consideration;
 - c. Grant a hearing de novo* upon reasonable notice thereof to the student and to the governing board. The hearing shall be conducted in conformance with the rules and regulations adopted by the county board under Section 48919.

The de novo procedure is as follows:

- * Presentation of witnesses and other evidence for/by the district
- *Presentation of witnesses and other evidence for/by the student
- *Response witnesses as appropriate
- *Closing response for the district
- *Closing response for the student
- *Response
- *Questions
- *Discussions
- *Board Decision

2. In all other cases, the Orange County Board of Education shall enter an order either affirming or reversing the decision of the local board. In any case in which the county board enters a decision reversing the local board, the county board may direct the local board to expunge the record of the student and the records of the district of any references to the expulsion action and such expulsion shall be deemed not to have occurred. (Education Code 48923)

* de novo: over again, anew

- E. The decision of the Orange County Board of Education shall be final and binding upon the student and upon the governing board of the school district. The student and the governing board shall be notified of the final order of the county board, in writing, whether by personal service or by certified mail. The order shall become final when rendered.

REF: Education Code Sections 48919, 48920, 48921, 48922, 48923, and 48924