



1-1-1984

# Education

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## Recommended Citation

University of the Pacific; McGeorge School of Law, *Education*, 15 PAC. L. J. 625 (1984).

Available at: <https://scholarlycommons.pacific.edu/mlr/vol15/iss2/21>

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# Education

## Education; suspension or expulsion of community college students

Education Code §§76030, 76031, 76032, 76033, 76033.5, 76034, 76035, 76036, 76037, 76038, 76039, 76040, 76042, 76043 (repealed); §§76030, 76031, 76032, 76033, 76034, 76035, 76036, 76037 (new);

Health and Safety Code §11591.5 (new); Penal Code §291.5 (new).

AB 1851 (Clute), 1983 STAT. Ch. 1032

Support: California Community Colleges; Department of Finance

Under prior law, only instructors, presidents, and governing boards of college districts were authorized to suspend students for good cause.<sup>1</sup> With the enactment of Chapter 1032, the president's designee also may exercise this right of suspension.<sup>2</sup> In addition, Chapter 1032 permits the governing board to expel a student for good cause when other means of correction have failed to bring about proper conduct, or when the presence of the student in the classroom poses a danger to the safety of the student or others.<sup>3</sup> Good cause, as used in Chapter 1032, includes (1) continued willful disobedience, use of profanity, defiance of authority, or abuse of college personnel,<sup>4</sup> (2) assault, battery, or threats of violence upon a student or college personnel,<sup>5</sup> (3) willful misconduct resulting in the injury or death of a student or college personnel,<sup>6</sup> (4) misconduct resulting in the defacing of school property,<sup>7</sup> (5) the use, sale, or possession of narcotics on campus,<sup>8</sup> (6) willful or persistent smoking in non-smoking areas,<sup>9</sup> or (7) persistent, serious misconduct by a student when other

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1. See 1971 Cal. Stat. c. 1173, §1, at 2239 (amending CAL. EDUC. CODE §76030) and 1976 Cal. Stat. c. 1010, §2, at 4025-26 (enacting CAL. EDUC. CODE §§76031, 76036).

2. CAL. EDUC. CODE §76030. Suspension must be consistent with the requirements of due process of law, the provisions of Chapter 1032, and with the rules of student conduct adopted by the governing board under section 66300 of the California Education Code. *Id.* No student may be removed, suspended, or expelled, however, unless the conduct for which the student is disciplined relates to college activity or college attendance. *Id.* §76034.

3. *Id.* §76030.

4. *Id.* §76033(a); see also *Review of Selected 1972 California Legislation*, 4 PAC. L.J., 450 (1973) (good cause for suspension from school).

5. *Id.* §76033(b).

6. *Id.* §76033(c).

7. *Id.*

8. *Id.* §76033(d).

9. *Id.* §76033(e).

means of correction have failed to correct the disruptive conduct.<sup>10</sup>

Moreover, Chapter 1032 provides that the president or the president's designee may suspend a student for good cause<sup>11</sup> from (1) one or more classes for a period of up to ten days instruction,<sup>12</sup> (2) one or more classes for the remainder of the scheduled term,<sup>13</sup> or (3) all classes and activities for one or more terms.<sup>14</sup> The president or the president's designee may also proscribe lesser disciplinary sanctions including, but not limited to, verbal or written reprimands, probation, or a determination that a student is ineligible to participate in extracurricular activities.<sup>15</sup> Once suspended, a student may not enroll in any community college within the district during the period of suspension.<sup>16</sup>

In addition, under Chapter 1032, adopted rules of student conduct may authorize an instructor to remove a student from the instructor's class for the day on which the student was removed and for the following class meeting.<sup>17</sup> If the student is a minor, the college president or the president's designee must ask the student's parent or guardian to attend a parent conference regarding the removal.<sup>18</sup> Upon request of the instructor, or the parent or guardian, a college administrator must attend the conference.<sup>19</sup> During the period of removal, the student may not return to the instructor's class unless the instructor consents.<sup>20</sup>

Chapter 1032 also permits the governing board to adopt other rules and regulations.<sup>21</sup> These additional rules may regulate student behavior, establish penalties for violations of the rules, and prescribe due process procedures, including procedures to notify students of the additional rules.<sup>22</sup>

Finally, Chapter 1032 requires sheriffs and chiefs of police to give writ-

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10. *Id.* §76033(f).

11. *Id.* §76031 (if the adopted rules of student conduct authorize the president or the president's designee to suspend). The president of the community college must report all suspensions to the governing board or district superintendent. If a minor is involved, the parent or guardian must be notified in writing. *Id.*

12. *Id.* §76031(a).

13. *Id.* §76031(b).

14. *Id.* §76031(c).

15. *Id.* §76031.

16. *Id.*

17. *Id.* §76032. The instructor must report the removal to the chief administrative officer. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. *Id.* §76037 (consistent with the provisions of Chapter 1032); *see, e.g., id.* §§76035, 76036 (provisions that cannot be altered). The president must, prior to the removal or suspension of any student, notify appropriate law enforcement authorities if the student commits an assault with a deadly weapon. Any violation related to parking of vehicles is not cause for removal or suspension. *Id.*

22. *Id.* §76037; *see also* *Aella v. Riverside Unified School District*, 65 Cal. App. 3d 153, 167, 135 Cal.Rptr. 177, 186, (1976) (school board may expand grounds for suspension, but must meet constitutional standards of reasonableness).

ten notice to the Office of the Chancellor<sup>23</sup> when an instructor is arrested for a sex<sup>24</sup> or narcotics<sup>25</sup> offense.<sup>26</sup> Furthermore, immediate notification by telephone to the superintendent of the instructor's district is required.<sup>27</sup> The superintendent then must immediately notify the governing board of the community college district employing the instructor.<sup>28</sup>

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23. See CAL. HEALTH & SAFETY CODE §11591.5; CAL. PENAL CODE §291.5 (applies to Chancellor of the California Community Colleges).

24. See CAL. PENAL CODE §291.5 (offenses enumerated in §§261(l), 290).

25. See CAL. HEALTH & SAFETY CODE §11591.5 (offenses enumerated in §11364 insofar as related to *id.* §11054(d)(9), §11590.1).

26. See CAL. HEALTH & SAFETY CODE §11591.5; CAL. PENAL CODE §291.5.

27. See CAL. HEALTH & SAFETY CODE §11591.5; CAL. PENAL CODE §291.5.

28. See CAL. HEALTH & SAFETY CODE §11591.5; CAL. PENAL CODE §291.5.

