Dear Appellant:

Under Education Code section 48919 and in accordance with Board Policy No. 5144, after the governing board of a school district makes a final action to expel a pupil, that pupil, or his or her parent or guardian, has a right to file an appeal of expulsion to the San Diego County Board of Education. This document has been created to assist appellants in filing such an appeal.

1. **Necessary Forms**

The necessary forms to file an appeal to the Board of Education are:

* Notice of Appeal of Expulsion and Request for Hearing
* Request for Transcripts and Supporting Documents from School District
* San Diego County Board of Education Board Policy No. 5144

1. **Timeline**

The pupil/parent/guardian has 30 days from the date the school district governing board voted to expel the pupil to file an appeal. If 30 calendar days have passed since the date of the expulsion, the San Diego County Board of Education shall not have jurisdiction to hear the appeal. This 30-calendar-day time limitation applies even during circumstances when the district suspends the enforcement of an expulsion order and allows the pupil to return to and attend school. Following the filing of a formal appeal request, the County Board of Education shall hold the hearing within 20 school days and render a decision within three school days of the hearing.

1. **Process to Complete**

Proper filing of an appeal requires the completion of a three-step process:

1. First, complete and submit the attached Notice of Appeal of Expulsion and Request for Hearing form to the San Diego County Office of Education, to the attention of Barbara Higgins.
2. Simultaneously, submit a written request to the expelling school district for a copy of the written transcript of the expulsion hearing and supporting documents that are a part of the official expulsion record. A sample form is attached for convenience.
   1. The school district shall provide the appellant with the transcripts, supporting documents, and records within 10 school days following the written request.
3. Immediately thereafter, file a suitable copy of the transcript and supporting documents/record with the County Office of Education.

It is the appellant’s responsibility to submit a written transcription to the county board for review. The cost of the transcript shall be borne by the appellant unless: 1) the pupil’s parent or guardian certifies to the school district that they cannot afford it, or 2) the county board reverses the expulsion decision, in which case the local governing board will reimburse the family for the costs.

1. **Scope of Review**

An appeal before the county board is not a rehearing but rather a procedural review of the transcripts of the hearing before the expelling district board to determine if all concerned have received a fair hearing. An appeal may be made when the pupil, parent, or guardian believes that one or more of the procedural conditions listed below has been violated:

1. The expelling school district board acted without, or in excess of, its jurisdiction
2. The expelling school district board did not conduct a fair hearing
3. The expelling school district board allowed a prejudicial abuse of discretion at the hearing
4. Relevant and material evidence exists that, in the exercise of reasonable diligence, could not have been produced or that was improperly excluded at the hearing before the expelling school district board

Once determining the basis or bases for an appeal, document this on the Notice of Appeal of Expulsion and Request for Hearing form with an explanation of the reasoning. For a more detailed account of procedural violations that the County Board of Education can review, please see Board Policy No. 5144 or Education Code section 48922, which outline the scope of review in expulsion hearings.

1. **Manner and Date of Hearing**

The county superintendent of schools, as secretary of the county board, shall set the date of the hearing within 20 school days following the receipt of a formal written request for a hearing, and shall, within two schooldays, furnish notice of this to the pupil and governing board. This Notice of Filing of Expulsion Appeal will include the date, time, and location of the hearing, which will be held in closed session (meaning the meeting is only open to members of the board of education, the student, the student’s parent or guardian and legal counsel -- if applicable -- and staff members who are responsible for supporting the hearing) unless the appellant requests in writing at least five days prior to the date scheduled for the hearing that he or she wishes it be conducted in public.

1. **Conclusion**

San Diego County Office of Education staff members are available to address questions or concerns about the expulsion appeal process. As a reminder, it might be prudent to consider engaging the services of an attorney or other knowledgeable advocate who shall have the opportunity to present to the board at the hearing. For more information, or to discuss the matter further and request any additional forms, please contact:

Primary contact: Barbara Higgins, director, 858-292-3577

Secondary contact: Jonathan Berry-Smith, legal research analyst, 858-292-3644

The appeal form (Notice of Appeal of Expulsion and Request for Hearing) shall be submitted or returned to the San Diego County superintendent of schools in person or by mail to:

**San Diego County Superintendent of Schools**

**Barbara Higgins, Director**

**6401 Linda Vista Road, Room 410**

**San Diego, CA 92111-7399**