

Suspension and Expulsion/Due Process**Definitions**

Suspension from school means removal of a student from ongoing instruction for adjustment purposes.

Suspension does not mean reassignment to another education program or class at the same school where the student will receive continuing instruction for the length of day prescribed by the Governing Board for students of the same grade level, nor referral to a certificated employee designated by the principal to advise students, nor removal from the class without reassignment to another class or program for the remainder of the period, without sending the student to the principal or designee. (Education Code 48925)

Expulsion means removal of a student from the immediate supervision and control, or the general supervision, of school personnel. (Education Code 48925)

Day means a calendar day unless otherwise specifically provided. (Education Code 48925)

Schoolday means a day upon which the schools of the district are in session or weekdays during the summer recess. (Education Code 48925)

Student includes a student's parent/guardian. (Education Code 48925)

Principal's designee means one or more administrators or, if there is not a second administrator at one school site, a certificated person specifically designated by the principal, in writing, to assist with disciplinary procedures. Only one such person may be designated at any time as the principal's primary designee and only one such person may be designated as secondary designee for the school year. The names of such persons shall be on file in the principal's office. (Education Code 48911)

Notice of Regulations

At the beginning of each school year, the principal of each school shall ensure that all students and parents/guardians are notified in writing of all school rules related to discipline, suspension and expulsion. Transfer students and their parents/guardians shall be notified at the time of enrollment. (Education Code 35291.5)

(*cf.* 5144 - *Student Discipline*)

Notification shall include information about the ongoing availability of individual school rules and all district policies and regulations pertaining to student discipline. (Education Code 35291)

(*cf.* 5145.6 - *Notification of Legal Rights*)

Grounds for Suspension and Expulsion

Students may be suspended or recommended for expulsion when the Superintendent, principal, or principal's designee at the school in which the student is enrolled determines that the student has done any of the acts listed below:

1. Caused, attempted to cause, or threatened to cause physical injury to another person.
2. Willfully used force or violence upon the person of another, except in self-defense.
3. Possessed, sold, or otherwise furnished any firearm, knife, explosive, or other dangerous object unless, in the case of possession of any object of this type, the student had obtained written permission to possess the item from a certificated school employee, with the principal or designee's concurrence.

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(cf. 5131.7 - Weapons and Dangerous Instruments)

4. Unlawfully possessed, used, sold, or otherwise furnished, or been under the influence of any controlled substance as defined in the Health and Safety Code 11053 et seq., alcoholic beverage, or intoxicant of any kind.

(cf. 5131.6 - Drugs, Tobacco, Alcohol)

5. Unlawfully offered, arranged, or negotiated to sell any controlled substance as defined in Health and Safety Code 11053 et seq., alcoholic beverage or intoxicant of any kind, and then sold, delivered, or otherwise furnished to any person another liquid, substance or materials and represented same as controlled substance, alcohol beverage or intoxicant.
6. Committed or attempted to commit robbery or extortion.
7. Caused or attempted to cause damage to school property or private property.
8. Stolen or attempted to steal school property or private property.
9. Possessed or used tobacco or any products containing tobacco or nicotine products (except as an ingredient of a prescribed drug that requires ingestion during school hours), including but not limited to cigars, cigarettes, miniature cigars, clove cigarettes, smokeless tobacco, snuff, chew packets and betel.
10. Committed an obscene act or engaged in habitual profanity or vulgarity.
11. Unlawfully possessed, or unlawfully offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.
12. Disrupted school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, other school officials, or other school personnel engaged in the performance of their duties.
13. Knowingly received stolen school property or private property.
14. Possessed an imitation firearm.
15. Committed or attempted to commit a sexual assault or committed a sexual battery.
16. Harassed, threatened, or intimidated a student who is a complaining witness or witness in a school disciplinary proceeding.
17. Committed sexual harassment (grades 4-12).
18. Caused, attempted to cause, threatened to cause, or participated in an act of hate violence (grades 4-12).
19. Intentionally harassed, threatened or intimidated a student or group of students to the extent of creating a hostile environment (grades 4-12).
20. Making terrorist threats against school officials, school property, or both. A terrorist threat shall include any statement, whether written or oral, by a person who willfully threatens to commit a crime which will result in death, great bodily injury to another person, or property damage in excess of \$1,000.00, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out and such threat is so unequivocal, unconditional, immediate and specific as to convey to the person threatened a gravity of purpose and immediate execution of the threat and thereby causes that person reasonably to be in fear for his or

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her own safety, or for his or her immediate family's safety, or for the protection of school district property, or personal property.

21. Committed assault or battery on a school official.

A student may be suspended or expelled for any of the acts listed above if the act is related to school activity of school attendance occurring at any district school or within any other school district, including but not limited to the following circumstances:

1. While on school grounds.
2. While going to or coming from school.
3. During the lunch period, whether on or off the school campus.
4. During, going to, or coming from a school-sponsored activity. Alternatives to suspension or expulsion will be used against students who are truant, tardy, or otherwise absent from assigned school activities. (Education Code 48900)

Alternatives to Suspension

1. Alternatives to suspension or expulsion will first be used against students who are truant, tardy or otherwise absent from assigned school activities.
2. A superintendent or principal may use their discretion to provide alternatives to suspension, or expulsion, including, but not limited to, counseling and an anger management program for a pupil subject to discipline.
3. As part of, or instead of, disciplinary action prescribed by this policy, the principal or designee, or superintendent or the governing board, may require a pupil to perform community service on school grounds.
4. With written permission of the parent or guardian, community service may be performed off school grounds during the student's non-school hours.
5. Community service as an alternative discipline form does not apply to a pupil suspended, pending expulsion pursuant to Education Code Section 48915.
6. Community service is permitted if the enforcement of the suspension has been suspended, or if the expulsion is stipulated.

Authority to Suspend

A *Teacher* may suspend any student from the teacher's class for any of the acts listed under "Grounds for Suspension and Expulsion" above for the day of the suspension and the day following. (Education Code 48910)

A *Superintendent, principal, or principal's designee* may suspend a student from a school for any of the acts listed under "Grounds for Suspension and Expulsion" above for not more than five consecutive school days. (Education Code 48911)

A student may be suspended from school for not more than 20 school days in any school year, unless for purposes of adjustment a student enrolls in or is transferred to another regular school, an opportunity school, or continuation school or class, in which case suspension shall not exceed 30 days in any school year. (Education Code 48903 and 48912)

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Suspension may be imposed upon a first offense if the principal determines the student violated items #1-#5 of the list or if the student violated items #6-#12 of the list and the student's presence causes a danger to persons or property or threatens to disrupt the instructional process. (Education Code 48900.5)

(cf. 5144.2 - Suspension and Expulsion/Due Process - Individuals with Exceptional Needs)

Suspension Procedures

1. Suspension from Class by a Teacher/Parental Attendance

Suspension from class means the removal of a student from class by a teacher for the day of the suspension and the next day. A teacher may suspend a student from class and may also refer a student for consideration of suspension from school for any act listed in "Grounds for Suspension and Expulsion" above.

When suspending a student, the teacher shall immediately report this action to the principal and send the student to the principal for appropriate action. The student shall be appropriately supervised during the class periods from which he/she has been suspended.

As soon as possible, the teacher shall ask the student's parent/guardian to attend a parent-teacher conference regarding the suspension. A counselor or psychologist should attend the conference if it is practicable, and a school administrator may attend if either the parent/guardian or teacher so request.

A suspended student shall not be returned to class during the period of suspension without the approval of the teacher of the class and the principal.

A student suspended from class shall not be placed in another regular class during the period of suspension. However, if a student is assigned to more than one class per day, he/she may be placed in any other regular classes except those held at the same time as the class from which the student was suspended. (Education Code 48910)

The teacher of any class from which a student is suspended may require the suspended student to complete any assignments and tests missed during the suspension. (Education Code 48913)

When a teacher requires a parent/guardian to attend school in accordance with Board policy, the principal shall send the parent/guardian a written notice that the parent/guardian's attendance is required pursuant to law. (Education Code 48900.1)

- a. This notice shall also tell the parent/guardian when his/her presence is expected and by what means he/she may arrange any necessary change.
- b. The notice shall describe the protections afforded to the parent/guardian as an employee by Labor Code 230.7.

The teacher shall remind the parent/guardian to meet with the principal or designee after completing the classroom visit and before leaving school premises.

2. Suspension by Superintendent, Principal, or Principal's Designee

a. Informal Conference

Suspension shall be preceded by an informal conference conducted by the principal, designee or the Superintendent between the student, and whenever practicable, the teacher, supervisor or school employee who referred the student to the principal. At the conference, the student shall be informed of the reason for

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the disciplinary action and the evidence against him/her and shall be given the opportunity to present his/her version and evidence in support of his/her defense. (Education Code 48911(b))

This conference may be omitted if the principal, designee or the Superintendent determines that an emergency situation exists. An "emergency situation" involves a clear and present danger to the lives, safety or health of students or school personnel. If the pre-suspension conference is not held, both the parent/guardian and student shall be notified of the student's right to return to school for the purpose of a conference. The conference shall be held within two school days, unless the student waives his/her right to it or is physically unable to attend for any reason. In such case, the conference will be held as soon as the student is physically able to return to school. (Education Code 48911(c))

b. Administrative Actions

All requests for student suspension are to be processed by the principal or designee of the school in which the student is enrolled at the time of the misbehavior.

A school employee shall report the suspension, including the name of the student and the cause for the suspension, to the Superintendent or designee.

c. Notice to Parents/Guardians

At the time of the suspension, a school employee shall make a reasonable effort to contact the parent/guardian by telephone or in person. Whenever a student is suspended, the parent/guardian shall be notified in writing of the suspension. (Education Code 48911)

This notice shall state the reasons for suspension and the date and time when the student may return to school. Should school officials wish to ask the parent/guardian to confer regarding matters pertinent to the suspension, the notice may also add that state law requires the parent/guardian to respond to such request without delay.

d. Parent/Guardian Conference

Whenever a student is suspended, school officials may meet with the parent/guardian to discuss the causes and duration of the suspension, the school policy involved, and any other pertinent matters. (Education Code 48914)

While the parent/guardian is required to respond without delay to a request for a conference about a student's behavior, no penalties may be imposed on the student for the failure of the parent/guardian to attend such conference. The student may not be denied readmission solely because the parent/guardian failed to attend.

e. Extension of Suspension

If the expulsion of a suspended student is being considered by the Board, the Superintendent or designee may, in writing, extend the suspension until such time as the Board has made a decision. (Education Code 48911(g))

This extension may be made only if the Superintendent or designee has determined, following a meeting with the student and the student's parent/guardian, that the student's presence at the school or at an alternative school would endanger persons or property or threaten to disrupt the instructional process. Any extension of the original period of suspension shall be preceded by notice of such extension with an offer to hold an additional conference concerning the extension, giving the student a further opportunity to be heard. (Education Code 48911(g) and Montoya v. Sanger Unified School District.)

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3. Suspension by the Board

When the Board is considering a suspension, disciplinary action, or any other action (except expulsion) against any student, it may hold closed sessions if a public hearing would lead to disclosure of information which would violate a student's right to privacy under Education Code 49073 et seq.

However, the Board shall provide the student with written notice of the closed session by registered or certified mail and the student may request a public meeting. The request shall be granted if made in writing within 48 hours after receipt of the Board's notice. However, any discussion that conflicts with any other student's right to privacy shall be in closed session. (Education Codes 48912 and 35146)

Authority to Expel

A student may be expelled only by the Board.

Grounds for Expulsion

The principal, Superintendent or designee shall recommend a student's expulsion for any of the following acts, unless the principal or Superintendent finds, and reports in writing to the Board, that expulsion is inappropriate due to particular circumstances which shall be set out in the report of the incident:

Citing Ed Code Sections 48900:

- a (1). Caused, attempted to cause, or threatened to cause physical injury to another person; or
- a (2). Willfully used force or violence upon the person of another, except in self-defense.
- b. Possession of any knife or other dangerous object of no reasonable use to the student at school or at a school activity off school grounds.
- c. Unlawful possession of any controlled substance, as listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code except for the first offense for the possession of not more than one avoirdupois ounce of marijuana, other than concentrated cannabis.
- d. Robbery or extortion.
- e. Assault or battery, as defined in sections 240 and 242 of the Penal Code, upon any school employee.

Mandatory Recommendation for Expulsion (Education Code 48915©):

- 1. Sale, possession or furnishing a firearm.
- 2. Brandishing a knife at another person.
- 3. Selling a controlled substance.
- 4. Sexual assault or sexual battery.
- 5. Possession of an explosive.

The Board may order a student expelled for any of the acts listed under "Grounds for Suspension and Expulsion" above upon recommendation by the principal, Superintendent, hearing officer or administrative panel finding that

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the student violated items #1-#5 of the list, or the student violated items #6-#21 of the list and other means of correction are not feasible or have repeatedly failed to bring about proper conduct; or due to the nature of the violation, the presence of the student causes a continuing danger to the physical safety of the student or others. (Education Code 48900)

(cf. 5144.2 - Suspension and Expulsion/Due Process (Individuals with Exceptional Needs))

Expulsion Procedures**1. Student's Right to Hearing (Education Code 48918(a))**

The student is entitled to a hearing to determine whether the student should be expelled. The hearing shall be held within 30 school days after the principal or Superintendent or designee determines that one of the acts listed under "Grounds for Suspension and Expulsion" has occurred.

The student is entitled to one postponement of an expulsion hearing for a period of not more than 30 calendar days. The request for postponement shall be in writing. Any subsequent postponement may be granted at the Board's discretion.

If the Board finds it impracticable to comply with these time requirements for conducting an expulsion hearing, the Superintendent or designee may, for good cause, extend the time period by an additional five school days. Reasons for the extension shall be included as a part of the record when the expulsion hearing is held.

Once the hearing starts, all matters shall be pursued with reasonable diligence and concluded without unnecessary delay.

2. Written Notice of the Hearing (Education Code 48918(b))

Written notice of the hearing shall be forwarded to the student and the student's parent/guardian at least ten calendar days before the date of the hearing. The notice shall include:

- a. The date and place of the hearing.
- b. A statement of the specific facts and charges upon which the proposed expulsion is based.
- c. A copy of district disciplinary rules which relate to the alleged violation.
- d. Notification that when seeking enrollment in another district, a student expelled for acts described in paragraphs #1 through #4 of Education Code 48915(a) or the student's parent/guardian must inform the new district of his/her status with the expelling district, pursuant to Education Code 48915.1. (Education Code 48918(b))
- e. The opportunity for the student or the student's parent/guardian to appear in person or to employ and be represented by counsel.
- f. The right to inspect and obtain copies of all documents to be used at the hearing.
- g. The opportunity to confront and question all witnesses who testify at the hearing.
- h. The opportunity to question all evidence presented and to present oral and documentary evidence on the student's behalf, including witnesses.

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3. Conduct of Hearing

- a. Closed Session: Notwithstanding the provisions of Government Code 54953 and Education Code 35145, the Board shall conduct a hearing to consider the expulsion of the student in a session closed to the public unless the student requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such request is made, the meeting shall be public. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to determine if the student should be expelled. If the Board admits any other person to the closed session, the parent/guardian, the student, counsel for the student and counsel of the parent/guardian shall also be allowed to attend the closed session. (Education Code 48918(c))
- b. Record of Hearing: A record of the hearing shall be made and may be maintained by any means, including electronic recording, so long as a reasonably accurate written and complete transcription of the proceedings can be made. (Education Code 48918(g))
- c. Presentation of Evidence: While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons can rely in the conduct of serious affairs. The decision of the Board to expel must be supported by substantial evidence that the student committed any of the above acts listed under "Grounds for Suspension and Expulsion" above. Findings of fact shall be based solely on the evidence at the hearing. While no evidence shall be based solely on hearsay, sworn declarations may be admitted as testimony from witnesses whose disclosure may subject them to an unreasonable risk of harm. (Education Code 48918(f) and (h) and John A. v. San Bernardino School District)
- d. Decision Within Ten Days: The Board's decision on whether to expel a student shall be made within ten school days after the conclusion of the hearing, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))
- e. Decision Within 40 Days: If the Board does not meet on a weekly basis, its decision on whether to expel a student shall be made within 40 school days after the student is removed from his/her school of attendance, unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

4. Alternative Hearing: Hearing Officer or Administrative Panel

Instead of conducting an expulsion hearing itself, the Board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California for a hearing officer. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be members of the Board or on the staff of the school in which the student is enrolled. (Education Code 48918(d))

A hearing conducted by the hearing officer or administrative panel shall conform to the same procedures as apply to a hearing conducted by the Board as specified in "Conduct of Hearing" above.

The hearing officer or administrative panel shall, within three school days after the hearing, determine whether to recommend expulsion of the student to the Board. If expulsion is not recommended, the student shall be immediately reinstated. (See "Reinstatement" below)

If expulsion is recommended, findings of fact in support of the recommendation shall be prepared and submitted to the Board. All findings of fact and recommendations shall be based solely on the evidence presented at the hearing. The Board may accept the recommendation based either upon a review of the findings of fact and recommendations submitted or upon the results of any supplementary hearing the Board may order. (Education Code 48918(f))

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The hearing officer or administrative panel may recommend that the Board suspend the expulsion for a period of one year. (See "Suspension of Expulsion" below)

The Board shall make its decision about the student's expulsion within 40 school days after the date of the student's removal from school unless the student requests in writing that the decision be postponed. (Education Code 48918(a))

5. Final Action by the Board

Whether the expulsion hearing is conducted in closed or public session by the Board, a hearing officer, or an administrative panel, the final action to expel must be taken by the Board at a public meeting. (Education Code 48918(i)). The Board shall maintain a record of each expulsion, including its cause. Expulsion records shall be nonprivileged, disclosable public records. (Education Code 48918(j))

Upon ordering the expulsion, the Board shall set a date, no later than the last day of the semester following the semester in which the expulsion occurred, when the student may apply for readmission to a school within the district. The Board may recommend a plan for the student's rehabilitation, which may include:

- a. Periodic review and assessment at the time of application for readmission.
- b. Recommendations for counseling, employment, community service and other rehabilitation programs.
- c. Such other recommendations as the Board approves.

Within parental consent, students who have been expelled for reasons relating to controlled substances or alcohol may be required to enroll in a county-sponsored drug rehabilitation program before returning to school. (Education Code 48916.5)

Upon expulsion, a copy of readmission procedures will be made available to the student and his/her parent/guardian.

6. Reinstatement

When the Board accepts a recommendation against expulsion or makes its own decision after the hearing not to expel, the decision is final and the student shall be reinstated immediately. The Superintendent or designee shall place the student in any classroom program, other instructional program, rehabilitation program, or any combination of such programs following consultation with district personnel, including the teacher involved, and with the student's parent/guardian. Education Code 48918(e))

7. Written Notice to Expel

The Superintendent or designee shall send written notice of the decision to expel to the student or parent/guardian. The notice shall inform the parent/guardian of the right to appeal such expulsion to the County Board of Education. (Education Code 48918(i))

The notice also shall inform the student or parent/guardian of his/her obligation to inform any new district in which the student seeks to enroll of the student's status with the expelling district, pursuant to Education Code 48915.1. (Education Code 48918(i))

Readmission (Education Code 48916)

An expulsion order shall remain in effect until the Board may order the readmission of the student.

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Readmission procedures shall be as follows:

1. A written request for review of expulsion action and request for readmission shall be submitted by the parent/guardian to the Superintendent or designee.
2. The Superintendent or designee will hold a conference with the parent/guardian and the student.

At the conference the conditions for readmission will be reviewed. The Superintendent or designee shall verify that the conditions have been met. School regulations will be reviewed and the student and parent/guardian will be asked to indicate in writing their willingness to comply with these regulations.

3. The Superintendent or designee will transmit the request for readmission to the Board, along with his/her recommendation. The Board may consider the request in closed session or in open session. If a written request for open session is received from the student or the parent/guardian, it will be honored.
4. The Superintendent or designee will notify the student or parent/guardian, by certified mail, of the Board's decision regarding readmission.

Suspension of Expulsion (Education Code 48917)

1. The Board, upon voting to expel a student, may suspend the enforcement of the expulsion order for not more than one calendar year and may, as a condition of the suspension of enforcement, assign the student to a school, class or program appropriate for the student's rehabilitation. When deciding whether to suspend an expulsion, the Board shall take into account the following criteria:
 - a. The student's previous behavior.
 - b. The seriousness of the misconduct.
 - c. The student's attitude toward the misconduct and his/her willingness to follow a rehabilitation program.
2. During this period the student shall be on probationary status.
3. The suspension of expulsion order may be revoked by the Board if the student commits any of the acts listed under "Grounds for Suspension and Expulsion" above or violates any of the district's rules and regulations governing student conduct.
4. When the suspension of expulsion order is revoked, a student may be expelled under the terms of the original expulsion order.
5. Upon satisfactory completion of the rehabilitation assignment, the Board shall reinstate the student in a district school. Upon reinstatement, the Board may order the expungement of any or all records of the expulsion proceedings.
6. Suspension of an expulsion order shall not affect the time period and requirements for the filing of an appeal of the expulsion order with the County Board. The appeal must be filed within 30 days of the Board's decision to expel.
7. The Superintendent or designee shall send written notice of any decision to suspend the enforcement of an expulsion order during a period of probation to the student or parent/guardian. The notice shall also inform the parent/guardian of the right to appeal the expulsion to the County Board. (Education Code 48918(I))

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Right to Appeal

The student or parent/guardian is entitled to file an appeal of the Board's decision to the County Board. The appeal must be filed within 30 days of the Board's decision to expel, even if the expulsion action is suspended and the student is placed on probation.

Maintenance of Records

The Board will maintain a record of each expulsion, including the cause therefore. The expulsion record shall be maintained in the student's mandatory interim record and sent to any school in which the student subsequently enrolls, within five days of a written request by the admitting school. (Education Code 48918(J))

The Superintendent or designee shall, within five working days, honor any other district's request for information about an expulsion from this district. (Education Code 48915.1)

(cf. 5119 - Students Expelled from Other Districts)

(cf. 5125 - Student Records)

Notifications and Reports

1. Notice to Law Enforcement Authorities

Within one school day after a student's suspension or expulsion, the principal or designee shall notify appropriate city or county law enforcement authorities, by telephone or other appropriate means, of any student acts which may violate Education Code 48900(c) or (d), relating to the possession, use, offering or sale of controlled substances, alcohol, or intoxicants of any kind.

Prior to the suspension or expulsion of any student, the principal or designee shall notify appropriate city or county law enforcement authorities of any student acts of assault which may have violated Penal Code 245. (Education Code 48902)

The principal or designee also shall notify appropriate city or county law enforcement authorities of any student possession of weapons or firearms in violation of Penal Code 626.9 and 626.10. (Education Code 48902)

2. Reports to California Department of Education

On forms supplied by the California Department of Education, principals or designees shall regularly submit to the Superintendent or designee a completed report of student suspensions and expulsions. The Superintendent or designee shall compile this information and submit the aggregated district data to the California Department of Education in accordance with timelines established in law. (Statutes other than Code, Chapter 363, Statutes of 1990)