How to support teachers with violent students?

Source: Eric Lindstrom from Langenkamp Curtis Price Lindstrom & Chevedden

Encourage members to assert their statutory rights even if it becomes annoying for the district so as to support your leverage in bargaining over the safety in the classroom:

E.C. 48910 (suspending disruptive students from their class for 2 days):

(a) A teacher may suspend any pupil from class, for any of the acts enumerated in Section 48900, for the day of the suspension and the day following. The teacher shall immediately report the suspension to the principal of the school and send the pupil to the principal or the designee of the principal for appropriate action. If that action requires the continued presence of the pupil at the schoolsite, the pupil shall be under appropriate supervision, as defined in policies and related regulations adopted by the governing board of the school district. As soon as possible, the teacher shall ask the parent or guardian of the pupil to attend a parent–teacher conference regarding the suspension. If practicable, a school counselor or a school psychologist may attend the conference. A school administrator shall attend the conference if the teacher or the parent or guardian so requests. The pupil shall not be returned to the class from which he or she was suspended, during the period of the suspension, without the concurrence of the teacher of the class and the principal.

(b) A pupil suspended from a class shall not be placed in another regular class during the period of suspension. However, if the pupil is assigned to more than one class per day this subdivision shall apply only to other regular classes scheduled at the same time as the class from which the pupil was suspended.

If the district is pressuring teachers not to suspend students and citing E.C. 48900(k). A few notes in response to that:

1. I interpret 48900(k) as only limiting *the administration's* ability to suspend or expel a student, and not limiting *teachers'* rights under 48910 to suspend disruptive students from their classrooms. 48900(k) says "Except as provided in Section 48910." And 48910 allows teachers to suspend students for "for any" of the grounds for discipline including disruption and willful defiance.

2. 48900(k) only limits the district administration's ability to take additional disciplinary action (beyond the teacher's action) based on the specific ground of "disruption" or "willful defiance." It doesn't limit disciplinary action based on the numerous other grounds, e.g.: (a) causing, attempting, or threatening physical injury to a teacher or another student; (f) damaging or attempting to damage school or private property; (i) committing an obscene act or using habitual profanity; or (r) bullying.

3. 48910 has no limit on the number of times a teacher may suspend a disruptive student from their classroom.

4. Students suspended by their teacher under 48910 cannot be returned to that class or placed in another general education setting during their period of suspension.

E.C. 44014 (filing police reports when teachers are assaulted or physically threatened):

Whenever any employee of a school district or of the office of a county superintendent of schools is attacked, assaulted, or physically threatened by any pupil, it shall be the duty of the employee, and the duty of any person under whose direction or supervision the employee is employed in the public school system who has knowledge of the incident, to promptly report the incident to the appropriate law enforcement authorities of the county or city in which the incident occurred. Failure to make the report shall be an infraction punishable by a fine of not more than one thousand dollars ($1,000).

E.C. 48904 (requiring parents to pay for property damage and authorizing teachers to withhold grades in certain circumstances):

> *the parent or guardian of any minor … who willfully cuts, defaces, or otherwise injures in any way any property, real or personal, belonging to a school district or private school, or personal property of any school employee, shall be liable for all damages so caused by the minor.*
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> *…*
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> *(1) Any school district or private school whose real or personal property has been willfully cut, defaced, or otherwise injured, or whose property is loaned to a pupil and willfully not returned upon demand of an employee of the school district or private school authorized to make the demand may, after affording the pupil his or her due process rights, withhold the grades, diploma, and transcripts of the pupil responsible for the damage until the pupil or the pupil's parent or guardian has paid for the damages thereto, as provided in subdivision (a).*
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> *…*
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> *(3) The governing board of each school district or governing body of each private school shall establish rules and regulations governing procedures for the implementation of this subdivision. The procedures shall conform to, but are not necessarily limited to, those procedures established in this code for the expulsion of pupils.*

See guidance from the CDE on usage of this section below.

E.C. 49079 (requiring teacher notification of student behavioral histories):

> *(a) A school district shall inform the teacher of each pupil who has engaged in, or is reasonably suspected to have engaged in, any of the acts described in any of the subdivisions, except subdivision (h), of Section 48900 or in Section 48900.2, 48900.3, 48900.4, or 48900.7 that the pupil engaged in, or is reasonably suspected to have engaged in, those acts. The district shall provide the information to the teacher based upon any records that the district maintains in its ordinary course of business, or receives from a law enforcement agency, regarding a pupil described in this section.*

E.C. 32280 — 32289.5 (requiring annual updates to school site safety plans):

-32286(a): "Each school shall adopt its comprehensive school safety plan by March 1, 2000, and shall review and update its plan by March 1, every year thereafter."
-get a copy of the safety plans and see what additional annoying provisions you can utilize
-utilize the school safety review process as an additional opportunity to bargain over safety issues

Special Education Rights

[A teacher] has a concern that students who should be in a special day class are assigned to general education classrooms because the district doesn't want to pay for SDC services. The misplacement of SDC students in gen ed settings, without adequate 1:1 para supports, creates a safety issue for the teachers.

…Figure out what's happening here and do some research… [to see if] the district may be out of compliance with **IEP timelines. See, e.g., E.C. 56043**:

> -(a) A proposed assessment plan shall be developed within 15 calendar days of referral for assessment
> -(c) Once a child has been referred for an initial assessment to determine whether the child is an individual with exceptional needs and to determine the educational needs of the child, these determinations shall be made, and an individualized education program team meeting shall occur within 60 days of receiving parental consent
> (f)(2) A meeting to develop an initial individualized education program for the pupil shall be conducted within 30 days of a determination that the child needs special education and related services
> (f)(1) An individualized education program required as a result of an assessment of a pupil shall be developed within a total time not to exceed 60 calendar days . . . from the date of receipt of the parent's or guardian's written consent for assessment

Interactive Process for Safety Issues

Teachers have the right to a safe workplace under the state constitution, education code, and labor code. And school districts have an affirmative obligation to provide teachers a safe workplace. See, e.g., **Labor Code 6401**: "Every employer shall furnish and use safety devices and safeguards, and shall adopt and use practices, means, methods, operations, and processes which are reasonably adequate to render such employment and place of employment safe and healthful. Every employer shall do every other thing reasonably necessary to protect the life, safety, and health of employees."

When there is something concrete that a district can reasonably do to correct a safety issue, the district has a duty to do it. For example, I just negotiated in another district for a teacher to be provided a paraprofessional to help with an assaultive student while the teacher was pregnant. When there are specific safety issues, we can send a demand letter, threaten litigation, and engage in sort of interactive process to negotiate improved conditions.

How to Address Assaultive Students:

Source: Matt Chevedden from Langenkamp Curtis Price Lindstrom & Chevedden

- **Notify administration in writing**; creating a strong written record is key
- If harmed, consider reviewing **worker's compensation** policies and file a claim
- **Consider discipline against the student and demand immediate District action**
- Be sure to **let your Union know** what is happening
- **"State-Created Danger Doctrine"** exposes District to financial liability for a potential claim when the district creates a danger that results in injury.
- **Hostile Work Environment**