
California State and Local Educational Agencies' Compliance with the Gun-Free Schools Act of 1994

FINAL AUDIT REPORT



Control Number ED-OIG/A09-A0008
September 2000

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U.S. Department of Education
Office of Inspector General
Sacramento, California

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UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF INSPECTOR GENERAL

SEP 20 2000

THE INSPECTOR GENERAL

MEMORANDUM

TO: Michael Cohen, Assistant Secretary
Office of Elementary and Secondary Education

FROM: Lorraine Lewis *Lorraine Lewis*

SUBJECT: FINAL AUDIT REPORT
California State and Local Educational Agencies'
Compliance with the Gun-Free Schools Act of 1994
Control No. ED-OIG/A09A0008

Attached is our subject report presenting our findings and recommendations resulting from our audit of the California State and Local Educational Agencies' Compliance with the Gun-Free Schools Act of 1994.

In accordance with the Department's Audit Resolution Directive, you have been designated as the action official responsible for the resolution of the findings and recommendations in this report.

If you have any questions, please contact Gloria Pilotti, Regional Inspector General for Audit at (916) 498-6622.

Please refer to the above control number in all correspondence relating to this report.

Attachment

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Executive Summary

The California State Department of Education (CDE) and local educational agencies (LEAs) substantially complied with the provisions of the Gun-Free Schools Act of 1994. However, we found that CDE and the LEAs need to take steps to ensure full compliance with the Act's requirements.

- California State law requires mandatory expulsions for a period of at least one year for students found with firearms while at school or at a school activity held off school grounds. However, the State law may not require mandatory expulsion for students found with explosives. Certain explosives are considered firearms under the Gun-Free Schools Act.
- Except for one instance involving a gun, our review at six LEAs found no evidence indicating that the LEAs did not comply with the California State law. However, LEAs may not have fully complied with the Gun-Free Schools Act since all students found with explosives were not expelled for at least one year.
- California State law allows the LEA's chief administering officer to modify the expulsion requirement for students on a case-by-case basis. However, we found that one of the six LEAs reviewed allowed school officials at lower organizational levels to make the decision to modify the expulsion requirement for students with disabilities.
- The CDE submitted annual reports to the U.S. Department of Education (Department) in accordance with guidance provided by the Department's Office of Elementary and Secondary Education (OESE). However, CDE and LEAs made errors when compiling expulsion information for Gun-Free Schools Act reports. Also, one LEA did not retain supporting documentation for its reports.
- The LEAs did not provide CDE with school-level data as required by the Gun-Free Schools Act.

We recommend that the Assistant Secretary for Elementary and Secondary Education determine whether the State law is in compliance with the Gun-Free Schools Act. If it is determined that the State law is not in compliance, we recommend that the Assistant Secretary assist CDE in formulating remedies to ensure that California LEAs expel students who are determined to have brought to school any destructive device (including an explosive device) that meets the definition of a firearm, and that the expulsion is for a period of not less than one year. We recommend that the Assistant Secretary require that CDE ensure that the LEA cited above has policies and procedures in place that comply with the requirement that only the chief administering officer, as defined by CDE, is authorized to make case-by-case decisions to not expel students who bring a firearm to school. CDE should also implement review procedures to ensure that LEA expulsion information is accurately reflected on its Gun-Free Schools Act reports submitted to the Department. In addition, we recommend that CDE take steps to ensure that LEAs submit

accurate Gun-Free Schools Act reports, retain supporting documentation for their reports and report required school-level data.

In its comments to the draft report, CDE generally concurred with the findings and described the corrective action planned or taken. CDE's comments are summarized in the report following each finding and the full text of the comments is included as an attachment.

Audit Results

We concluded that CDE and the six LEAs covered by our site reviews substantially complied with the provisions of the Gun-Free Schools Act and that the six LEAs substantially complied with applicable State laws. However, we found that (1) the California State law may not require mandatory expulsions for students who bring explosives to school, (2) one LEA allowed decisions to modify the expulsion requirement to be made at lower organizational levels than allowed by the Act, (3) CDE and the LEAs made errors when compiling expulsion information for reports, and (4) LEAs did not provide CDE with required school-level data.

Other than incidents involving explosives and one incident involving a gun, our on-site reviews at the six LEAs found no evidence that the LEAs had not complied with the Gun-Free Schools Act or State law requirement to expel students for at least one year who were found with a firearm at school or a school activity held off school grounds. Also, we found no evidence that the LEAs had not referred to the criminal justice or juvenile delinquency system those students who were found with a firearm.

Finding No. 1 – California State Law May Not Require Mandatory Expulsions of Students Who Bring Explosives to School

California State law may not require mandatory expulsions of students who bring explosives to school. Therefore, California may not meet the State law requirements specified in the Gun-Free Schools Act.¹ Section 14601(b)(1) of the Gun-Free Schools Act states that:

...each State receiving Federal funds under this Act [Elementary and Secondary Education Act] shall have in effect a State law requiring local educational agencies to expel from school for a period of not less than one year a student who is determined to have brought a weapon to a school under the jurisdiction of local educational agencies in that State, except that such State law shall allow the chief administering officer of such local educational agency to modify such expulsion requirement for a student on a case-by-case basis.

Section 14601(b)(4) defines the term “weapon.”

For the purpose of this section, the term ‘weapon’ means a firearm as such term is defined in section 921 of [T]itle 18, United States Code [USC].

¹ We previously informed OESE of this finding in our State and Local Action Memorandum No. 00-02, dated May 18, 2000.

The definition of “firearm” contained in 18 USC §921(a)(3) includes “any destructive device.”

The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; or (D) any destructive device [emphasis added].

Title 18 USC §921(a)(4) defines “destructive device” to include certain types of explosive devices.

California Education Code (EDC) §48915 contains the California State law covering required expulsion actions for LEAs. The section established differing levels of required action for acts involving “firearms” and “explosives.”

- For acts involving firearms, EDC §48915(c) requires that principals or superintendents immediately suspend and recommend expulsion for students who have been found to have possessed, sold or otherwise furnished a firearm while at school or at a school activity held off school grounds. EDC §48915(d) requires that governing boards order students expelled for this offense. EDC §48916(a) requires that the governing boards set a review date for student readmissions that are one year from the expulsion date. The section allows the governing boards to set an earlier readmission date on a case-by-case basis.
- For acts involving explosives, EDC §48915(a) requires that principals or superintendents recommend expulsion for students who have been found to have possessed any explosive while at school or at a school activity held off school grounds unless the principal or superintendent finds that expulsion is inappropriate. EDC §48915(b) states that governing boards may order an expulsion for this offense.

The above cited EDC sections do not define “firearm” or “explosive,” or contain references to definitions in other sections of the State law.

Under EDC §48915 and EDC §48916, California State law allows LEAs discretion in ordering the expulsion of students who possess explosive devices. Also, if the LEA decides to expel a student for possessing an explosive device, California State law does not specify a minimum length for the expulsion. Therefore, California State law may not be in compliance with Gun-Free Schools Act requirements for students who were found to possess explosives or other destructive devices that meet the 18 USC §921 definition of a firearm.

Except for one incident involving a gun,² our review at six LEAs found no evidence indicating that the LEAs did not comply with the California State law provision requiring expulsion for one year of students who were found with firearms. However, LEAs may not have fully complied with the Gun-Free Schools Act since not all students found with explosives were expelled for at least one year.

At three of the six LEAs reviewed, school records noted disciplinary actions against students for acts involving explosives at school. One LEA, with a single incident, expelled the student from school for a full year. The other two LEAs, with incidents involving 26 students, either transferred the students to another school (3 students), expelled the students for a period shorter than one year (2 students) or suspended enforcement of the expulsion³ (21 students). District officials informed us that the expulsions were shortened or suspended because a one-year expulsion is not required by the California Education Code.

School records described some of the explosive devices as: a test tube filled with gunpowder, a pipe bomb, firecrackers (M-80, M-100, and M-2000) and a dry ice bomb. School records for another instance did not provide a description of the device, but stated that the device was capable of causing severe injury and had been taken to the local fire department for testing. Some or all of the explosive devices could be considered “firearms” under the definition in 18 USC §921 depending on the design of the device, intended use and the student’s handling of the device. The information we obtained from school records was insufficient for us to make a determination for each incident.

Recommendation

The Assistant Secretary for Elementary and Secondary Education should:

- 1-1. Determine whether the State law is in compliance with the Gun-Free Schools Act. If it is determined that the State law is not in compliance, we recommend that the Assistant Secretary assist CDE in formulating remedies that ensure California LEAs expel students who are determined to have brought to school any destructive device (including an explosive device) that meets the 18 USC §921 definition of a firearm and that the expulsion is for a period of not less than one year.

² For one gun incident, school officials did not recommend the student (age 15) for expulsion. According to a school official, the school took no expulsion action because the student was arrested, did not return to the school and apparently did not enroll at another school since the school had not received a request for the student's school records. The school's failure to recommend the student for expulsion violated the Gun-Free Schools Act, California Education Code and the LEA's policy. Since the violation appears to be an isolated instance rather than a systemic problem, we have not recommended corrective action to address the violation.

³ California Education Code permits a governing board to suspend its order to expel a student for up to one calendar year. Students whose expulsion orders have been suspended are deemed to be on probationary status. The governing board may reinstate a student's expulsion order if the student subsequently violates any rule or regulation governing student conduct.

CDE's Comments

CDE agreed with the need for legal guidance and assistance to ensure that California State law complies with the requirements of the Gun-Free Schools Act.

OIG's Response

Based on our discussions with Department officials, we revised our recommendation.

Finding No. 2 – LEA's Decisions to Modify the Expulsion Requirement Were Made at Lower Organizational Levels Than Allowed By the Gun-Free Schools Act

Three of six LEAs reported expulsions involving firearms to CDE. At one of the three LEAs, decisions to modify the expulsion requirement for students with disabilities were made at lower organizational levels than allowed by the Gun-Free Schools Act. These decisions were made either by the school principal or staff in the district discipline unit. The LEA's procedures did not require that either the district superintendent or the district's governing board review the decisions. Also, during our interviews and review of school records, we found no evidence indicating that either the superintendent or board was made aware of the firearm incidents or the decision to modify the expulsion requirement.

Section 14601(b)(1) of the Gun-Free Schools Act specifies that the State law shall allow the chief administering officer of the LEA to modify the expulsion requirement for a student on a case-by-case basis. In State guidance issued on December 23, 1996, CDE informed the LEAs that, "[i]n California, the chief administering officer of a school district is the superintendent, acting under the direction of the governing board, so the superintendent is responsible for carrying out the decision to modify expulsion terms." We consider the following to be modifications of the expulsion requirement for students who were found to have had a firearm: shortened length of the expulsion, suspended enforcement of the expulsion and decisions to not expel the student.

California Education Code contains two sections that allow modification of the Gun-Free Schools Act's student expulsion requirement. EDC §48916 states that the governing board may modify the length of the expulsion.

For a pupil who has been expelled pursuant to subdivision (c) of Section 48915, the governing board shall set a date of one year from the date the expulsion occurred, when the pupil shall be reviewed for readmission to a school maintained by the district, except that the governing board may set an earlier date for readmission on a case-by-case basis.

Under EDC §48915.5(a), the governing board is required to modify the expulsion requirement (not expel) for students with disabilities when an individualized education program (IEP) team determines that the students' actions were a manifestation of their disability or the students were not appropriately placed at the time.⁴

In a matter involving a pupil with previously identified exceptional needs who is currently enrolled in a special education program, the governing board may order the pupil expelled pursuant to subdivision (b) or (d) of Section 48915 only if all of the following conditions are met:

- (1) An individualized education program team meeting is held....*
- (2) The team determines that the misconduct was not caused by, or was not a direct manifestation of, the pupil's identified disability.*
- (3) The team determines that the pupil had been appropriately placed at the time the misconduct occurred.*

Both OESE and the Office of Special Education Programs (OSEP) issued guidance to State educational agencies emphasizing that the discipline of students with disabilities is to be determined on a case-by-case basis for purposes of compliance with the Gun-Free Schools Act.⁵ In its "Guidance Concerning State and Local Responsibilities Under the Gun-Free Schools Act of 1994," OESE advised that:

Compliance with the Gun-Free Schools Act may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws [emphasis added].

In OSEP Memorandum 95-16, dated April 26, 1995, OSEP issued guidance to State educational agencies on applying the Gun-Free Schools Act requirements to students with disabilities who bring firearms to school. In the response to Question #15 of the Question and Answer section, OSEP confirmed that only the chief administering officer is authorized to make a decision to not expel the student.

...[If] it is determined that the student's behavior of bringing a firearm to school was a manifestation of the student's disability, the chief administering officer must exercise his or her authority under the Gun-Free Schools Act to determine that the student may not be expelled for the behavior.

⁴ This California Education Code section addresses the requirement of Section 14601(c) of the Gun-Free Schools Act which specifies that "*provisions of this section [Gun-Free Requirements] shall be construed in a manner consistent with the Individuals with Disabilities Education Act.*"

⁵ OSEP is a component under the administration of the Assistant Secretary for the Office of Special Education and Rehabilitative Services.

At the one LEA, principals had the authority to make the decision to stop the expulsion process at the school-level when an IEP team determined that the student's behavior was a manifestation of his or her disability or that the student was not appropriately placed at the time of the incident. Prior to closing the case, principals had the option of forwarding the case to the district discipline unit for review by a special education specialist.

For all instances reviewed at the LEA, the IEP team had conducted the required assessment. However, the LEA's practice, which allows principals to make the decision to modify the expulsion requirement, does not comply with the requirement of the Gun-Free Schools Act, California Education Code or guidance provided by OESE, OSEP and CDE. Also, under the LEA's current practice, there was no assurance that the district superintendent or governing board was aware of all firearm incidents in the district or that they concurred with the disposition of those incidents.

Recommendation

The Assistant Secretary for Elementary and Secondary Education should:

- 2-1. Require CDE to ensure the LEA cited in our finding has policies and procedures in place that comply with the requirement that only the chief administering officer, as defined by CDE, is authorized to make case-by-case decisions to not expel students who bring a firearm to school, including incidents involving students with disabilities.

CDE's Comments

CDE concurred with the finding. CDE stated that it will request the LEA cited in the finding to promptly take appropriate corrective actions. Also, CDE has added language in its instructions to LEAs for completing the Gun-Free Schools Act Reporting Form for 1999-2000 to emphasize that only the LEA's chief administering officer has the authority to shorten the expulsion length, suspend enforcement of the expulsion or not expel the student.

OIG's Response

Based on CDE's comments on the draft report, we revised the recommendation to apply solely to the one LEA rather than requiring CDE to ensure that all LEAs have appropriate policies and procedures in place that comply with the requirement.

Finding No. 3 – CDE and LEAs Made Errors When Compiling Expulsion Information for Gun-Free Schools Act Reports

The Gun-Free Schools Act requires that State educational agencies collect information from LEAs concerning expulsions under the State law and report such information to the Department on an annual basis. Both CDE and LEAs made errors when compiling expulsion information for their reports. Also, one LEA had not retained supporting documentation of its reports and did

not have written procedures necessary to replicate the supporting documentation from its electronic database.

[CDE's Compilation of LEA-Provided Information for Statewide Report](#). During our review of CDE's compilation of expulsion information for school year 1997-98, we found that CDE had:

- Excluded four expulsions from the statewide report due to an error in an electronic spreadsheet formula used to calculate data totals,
- Increased an LEA's reported number of expulsions by one due to its misinterpretation of wording on the LEA's report, and
- Erroneously transferred totals from its spreadsheet to the reporting form.

<u>Data Element Description</u>	<u>Per Spreadsheet</u>	<u>Per Reporting Form</u>
Shortened expulsions	84	319
Shortened expulsions for students without disabilities	81	84
Referrals to alternative schools or programs	319	81

The Department expressed its commitment to collecting and reporting the most accurate data possible in a letter to CDE, dated March 29, 1999. In that letter, the Department requested written verification of the accuracy of the expulsion information previously reported by CDE. CDE provided the written verification, but was unaware of the above errors.

[LEAs' Compilation of Information for Reports to CDE](#). We reviewed the supporting documentation for reports submitted by six LEAs for school year 1997-98. At four LEAs, we also reviewed supporting documentation for reports submitted for school year 1998-99.

Firearm Definition - Two LEAs improperly included expulsions related to non-firearms (pellet-gun and ammunition). Expulsions for these items should not have been included in the Gun-Free School Act reports since the items did not meet the 18 USC §921 definition of a firearm. The LEAs reported the non-firearm expulsions because they did not fully understand this definition. We also found two LEAs that included expulsions involving students who had explosives. However, the student records did not contain sufficient information for us to make a determination as to whether the explosive devices would be considered firearms under 18 USC §921.

Timing of Expulsion – Three LEAs improperly included students in their reports who were expelled in the subsequent school year. This occurred because the LEAs used the date of the firearm incident rather than the expulsion date to identify the applicable reporting period. According to CDE officials, LEAs report incidents for the California Safe Schools Assessment based on the incident date rather than expulsion date. This difference may have lead to confusion regarding the reporting for the Gun-Free Schools Act.

Shortened Expulsion – One LEA failed to identify expulsions that were less than one year as shortened expulsions. The LEA did not report the expulsions as shortened expulsions because the incidents involved explosives and the California State law does not mandate a year’s expulsion for incidents involving explosives. The statewide Gun-Free Schools Act report form requires states to report the number of shortened expulsions when the expulsion term is less than one year.

Errors in LEA Database Records – One LEA used an electronic database to track its discipline actions. The database included fields for "board date" which showed the date of an expulsion action by the governing board and "reason" which included codes for such devices as a firearm, pellet gun, and replica. The LEA used these fields to extract expulsion information it reported to CDE.

The LEA erroneously excluded reporting five expulsions involving firearms due to missing dates from the database for one board meeting. The LEA could not explain why the board date data were not present. The LEA also improperly included expulsions for a bb gun and a toy gun, because the guns had erroneously been coded as firearms. The LEA explained that the "reason code" was determined based on the initial referral from the school, and while it was later determined that the devices were not firearms, there were no procedures in place to update the database. LEA officials stated that they intend to implement such procedures.

[LEA’s Supporting Documents for Report Submitted to CDE.](#) One LEA was unable to provide the original documentation supporting the reports submitted to CDE and did not have written procedures for replication of the documentation from its database. Title 34 Code of Federal Regulations, §80.42, requires supporting documents, statistical records and other records which are reasonably considered as pertinent to program regulations to be maintained for three years. LEA staff could not locate the original documentation due to personnel changes since the reports had been submitted. For purpose of our audit, the LEA’s current staff extracted documentation from the database using assumptions on how it may have originally been retrieved. However, we had limited assurance that the student records being audited were for the same student expulsions included on the LEA’s reports to CDE.

Recommendations

The Assistant Secretary for Elementary and Secondary Education should require CDE to:

- 3-1. Implement review procedures to ensure that LEA expulsion information is accurately reflected on its statewide Gun-Free Schools Act reports submitted to the Department.
- 3-2. Emphasize to LEAs the importance of submitting accurate data on their reports and issue guidance on applying the 18 USC §921 firearm definition and the timing of expulsions to be included in the reports.
- 3-3. Require LEAs to retain supporting documentation for reports submitted to CDE for a period of three years.

CDE's Comments

CDE concurred with the recommendations. CDE stated that it has developed internal review procedures for the statewide report. Also, CDE has revised its Gun-Free Schools Act Reporting Form and the instructions used by LEAs to clarify that certain weapons and devices are not reportable under the Gun-Free Schools Act and to emphasize the importance of submitting accurate information. CDE stated that it will also remind LEAs that supporting documentation must be retained for the required period.

Finding No. 4 – LEAs Did Not Provide CDE With School-Level Data As Required By the Gun-Free Schools Act

LEAs provided CDE with district totals on the number of students expelled who brought a firearm to school by grade level and firearm category (handgun, shotgun/rifle, or other), as well as data on shortened expulsions and referrals to alternative schools or programs. However, the LEAs did not provide CDE with the individual school-level information required in the Gun-Free Schools Act.

Section 14601(d)(2) of the Gun-Free Schools Act requires local educational agencies requesting funding under the Elementary and Secondary Education Act of 1965 (ESEA) to provide to the State the following information:

...[D]escription of the circumstances surrounding any expulsions imposed under the State law..., including–

- (A) the name of the school concerned;*
- (B) the number of students expelled from such school; and*
- (C) the type of weapons concerned.*

LEAs did not provide the information specified in §14601(d)(2) because the Gun-Free Schools Act Reporting Form used by LEAs to report expulsion data to CDE did not specifically request the information. The CDE-developed form was similar to the statewide Gun-Free Schools Act report form provided by the Department. According to State officials, CDE did not include space for the individual school-level data on its LEA reporting form because the Department did not require State educational agencies to include the information on statewide Gun-Free Schools Act reports.

Recommendation

The Assistant Secretary for Elementary and Secondary Education should:

- 4-1. Require that CDE inform the LEAs of the requirement to provide CDE with the individual school-level information listed in the Gun-Free Schools Act. To facilitate the reporting of this information, CDE should consider expanding the Gun-Free Schools Act Reporting Form provided to LEAs. The form should include the name of the school(s), the number of students expelled from such school(s), and the type of weapons involved at the school(s).

CDE's Comments

CDE concurred with the recommendation. CDE has expanded the Gun-Free Schools Act Reporting Form used by LEAs to include space to provide the required school-level information.

Background

The Gun-Free Schools Act of 1994 (Title 20 U.S. Code Sections 8921, 8922 and 8923) is part of the Improving America's Schools Act of 1994. The Gun-Free Schools Act requires that each State receiving ESEA funds shall have in effect a State law requiring LEAs to expel from school for not less than one year a student who is determined to have brought a weapon to school. Such State law shall also allow the LEA's chief administering officer to modify an expulsion requirement on a case-by-case basis.

States are also required by the Gun-Free Schools Act to report to the Department annually on the number of students expelled for possessing a weapon under State law. The Act considers a weapon to be a firearm as defined in 18 USC § 921, which includes weapons that expel a projectile, such as a gun, rifle, or shotgun, and some explosive devices. The Act does not require LEAs to expel students for the possession of weapons that do not meet its firearm definition, such as bb guns, pellet guns and ammunition. States or LEAs may choose to take such disciplinary action against students found in possession of these weapons, but the expulsions should not be reported to the Department for purpose of the Gun-Free Schools Act.

The Act requires that each LEA receiving ESEA funds provide its State educational agency with an assurance of its compliance with State law. The Act also requires that LEAs adopt a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a weapon to school. Also, LEAs must provide information on expulsions imposed under State law.

CDE is the State agency responsible for administering the ESEA funds in California. The Department awarded \$1,077,812,867 of ESEA funds to CDE for Federal fiscal year 1997-98. For the 1997-98 school year, 153 of California's 1,049 LEAs reported having expelled students for having firearms at school or at a school activity held off school ground. The 153 LEAs reported a total of 382 such expulsions for the school year.

Purpose, Scope and Methodology

The primary objective of the audit was to determine if CDE and LEAs were in compliance with the Gun-Free Schools Act. The sub-objectives of the audit were to determine whether (1) students who brought a weapon to school were expelled or if "case-by-case" exceptions were made by the appropriate LEA officials and (2) LEAs' policies were in compliance with State laws and the Gun-Free Schools Act. California was one of seven States selected for a multi-State review of compliance with the Gun-Free Schools Act.

To accomplish the objectives, we reviewed applicable California State laws and interviewed CDE officials and staff responsible for preparing the statewide Gun-Free Schools Act reports. We also evaluated CDE's procedures for ensuring that LEAs complied with the State law and the Gun-Free Schools Act.

During the 1997-98 school year, the State of California had 1,049 LEAs that were required to report expulsion data. To select the LEAs covered by our review, we grouped the LEAs by student population size. Los Angeles Unified was selected based solely on the size of its student population. The other eleven LEAs were randomly selected from three groups with student populations over 500 students. From these twelve LEAs, we judgmentally selected six LEAs (two from each population group) for our site visits. The following table shows the number of LEAs in each selection group:

Student Population	Number of LEAs	Reviewed Policies and Gun-Free Schools Act Reporting Form	Conducted Site Visits ⁶
Large - 25,000 and over	34	Los Angeles Unified Santa Ana Unified San Jose Unified Poway Unified	Los Angeles Unified Santa Ana Unified
Medium - 6,000 to 24,999	189	El Rancho Unified Atascadero Unified Redwood City Elementary Lennox Elementary	El Rancho Unified Atascadero Unified
Small - 501 to 5,999	498	Palermo Union Hughson Union Gold Trail Union Shasta County Office of Education	Palermo Union Hughson Union

⁶ Los Angeles, Santa Ana, and El Rancho were selected because these LEAs had the largest student populations within their groups and had at least four high schools and middle schools. Atascadero was selected because it had high schools and middle schools. Palermo and Hughson were selected because these LEAs had the largest student populations within their group.

For the group of 12 LEAs, we reviewed the LEAs' policies requiring one-year expulsion and law enforcement referral. For the group of six LEAs, we conducted site visits to determine whether the LEAs complied with the requirements of the Gun-Free Schools Act and the State law. We interviewed district officials to assess their awareness of the Gun-Free Schools Act, reviewed the expulsion policies and gained an understanding of the LEAs' expulsion and data reporting procedures. We visited 21 schools (9 high schools, 8 middle schools, and 4 elementary schools), where we interviewed 188 people, consisting of:

- 44 school administrators,
- 58 teachers,
- 26 guidance counselors/psychologists,
- 22 school security staff, including 16 officers,
- 32 parents, including 25 representatives of school parent organizations, and
- 6 custodians.

We interviewed a district-level teachers' union representative at all six LEAs. Additionally, for five of the six LEAs, we interviewed ten local law enforcement officials and reviewed their firearm incident reports when such records were available. At the Los Angeles Unified School District, we interviewed the district school police rather than the several city police and county sheriff's departments having jurisdiction in the district. For the three LEAs that reported expulsions for school year 1997-98, we reviewed all supporting documentation, including student discipline files and electronic database records, to assess the accuracy of reporting.

To achieve our audit objectives, we relied on information contained in a CDE database of LEA-reported expulsion information for the 1997-98 school year.⁷ To assess the reliability of the database, we (1) traced the information in the database for the 12 selected LEAs to the LEAs' hardcopy reports and (2) recalculated the numeric field totals. Other than the errors noted in Finding No. 3, nothing came to our attention as a result of our tests that caused us to doubt that the database reflected the expulsion information reported by the LEAs.

For our review at the Los Angeles Unified School District, we relied on a report generated from the LEA's computerized database used to track discipline actions. The report consisted of a list of discipline actions for incidents involving firearms, bb guns, pellet guns, replica guns and explosives that occurred during school years 1997-98 and 1998-99. Our assessment of the report's reliability was limited to (1) comparing the number of discipline actions listed on the report with the expulsion information that the LEA reported to CDE and (2) confirming the report's information with information in student discipline files for all school year 1997-98 firearm and explosive incidents and for those school year 1998-99 incidents where we identified a risk that the information may not have been properly reported. Other than the errors noted in Finding No. 3, nothing came to our attention as a result of our tests that caused us to doubt that the report reflected discipline actions that occurred for the two years.

⁷ Originally, CDE recorded the expulsion information reported by the LEAs for the 1997-98 school year in an electronic spreadsheet. After preparing its Gun-Free Schools Report, CDE transferred the information to the database. The original spreadsheet contained the formula error reported in Finding No. 3.

Our audit work covered policies, procedures and reports for the 1997-98 school year. At the Los Angeles, Santa Ana, El Rancho and Hughson school districts, we expanded our review, as necessary, to include procedures and reports for the 1998-99 school year. Fieldwork was conducted from February to May 2000. Our audit was performed in accordance with generally accepted government auditing standards appropriate to the scope of the review described above.

Statement on Management Controls

As part of our review, we assessed the system of management controls, policies, procedures and practices applicable to CDE's and the selected LEAs' compliance with the Gun-Free Schools Act. Our assessment was performed to determine the nature, extent and timing of our substantive tests to accomplish the audit objectives.

For the purpose of this report, we categorized the significant controls as follows:

- State data collection and reporting
- LEA data collection and reporting
- LEA discipline and law enforcement referral procedures

Because of inherent limitations, a study and evaluation made for the limited purpose described above would not necessarily disclose all material weaknesses in the management controls. However, our assessment disclosed significant management control weaknesses, which adversely affected CDE's ability to report accurate data to the Department and the selected LEAs' ability to comply with the Gun-Free Schools Act. These weaknesses included allowing decisions to modify expulsions to be made at lower organizational levels than allowed by the Gun-Free Schools Act, reporting errors and lack of supporting documentation. These weaknesses and their impacts are discussed in the Audit Results section of this report.

Attachment

CDE's Comments to the Report



DELAINE EASTIN
State Superintendent of Public Instruction

CALIFORNIA
DEPARTMENT
OF
EDUCATION

721 Capitol Mall

P.O. Box 944272

Sacramento, CA

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August 14, 2000

Gloria Pilotti
Regional Inspector General for Audit
U.S. Department of Education
Office of Inspector General
801 I Street, Room 219
Sacramento, CA 95814



Audit No. ED-OIG/A09-A0008

Dear Ms. Pilotti:

This letter is the California Department of Education's (CDE) response to your draft audit report entitled, "California State and Local Educational Agencies' Compliance with the Gun-Free Schools Act of 1994." Thank you for the opportunity to comment on the draft findings resulting from your review of our work to comply with the Gun-Free Schools Act of 1994. School safety is an important priority for CDE, and the findings from your review will guide us in taking additional steps to emphasize school safety with our school districts.

Please review the attached pages for CDE's view and corrective action plans for the four findings and set of recommendations. CDE's responses describe the changes that have already been initiated to improve the overall accuracy of the GFSA reporting process.

If you have questions, you may contact CDE's Audit Response Coordinator, Peggy Peters, at (916) 657-4440.

Sincerely,

LESLIE FAUSSET
Chief Deputy Superintendent of Public Instruction

Enclosure

ENCLOSURE

CALIFORNIA DEPARTMENT OF EDUCATION

RESPONSE TO

**Draft Audit Report Regarding Compliance with
Provisions of the Gun-Free Schools Act**

Audit Control Number ED-OIG/A09-A0008

August 2000

Finding 1. California State Law May Not Require Mandatory Expulsions of Students Who Bring Explosives to School

Major Issues Identified in the Draft Report:

- California State law may not require mandatory one-year expulsions of students who bring explosives to school as required under provisions of the GFSA.
- The definition of "firearm" in *Title 18, United States Code (U.S.C.)* section 921(a)(3) includes "any destructive device." A "destructive device" includes, as defined in Title 18, *U.S.C. section 921(a)(4)*, certain types of explosive devices.
- *California Education Code* sections 48915 and 48916 allow LEAs discretion in ordering the expulsion of students who possess explosive devices. In particular, Section 48915(b) requires principals or superintendents to recommend expulsion for students who have been found to have possessed any explosive while at school or at a school activity held off campus unless the principal or superintendent finds that the expulsion is inappropriate. Also, Section 48915(b) states that governing boards may order an expulsion for this offense.
- A minimum length for the expulsion is not specified and the definition of "firearm" or "explosive" is not provided for or referenced in the above *Education Code* sections.

Recommendation for Finding 1:

"The Assistant Secretary for OESE should:

- 1-1. Request a legal opinion from the Office of the General Counsel on whether California's law is in compliance with the Gun-Free Schools Act and if it is determined that the State law is not in compliance, assist CDE in formulating remedies that ensure California LEAs expel students who are determined to have brought to school any destructive device (including an explosive device) that meets the Title 18 U.S.C. section 921 definition of a firearm and that the expulsion is for a period of not less than one year."*

CDE's Response:

CDE agrees with the recommendation seeking guidance and assistance from the Office of the General Counsel on this audit issue. (SEE OIG NOTE 1)

OIG NOTE 1: This recommendation was revised in the final report to omit reference to the Office of the General Counsel.

Finding 2. LEA's Decisions to Modify the Expulsion Requirement Were Made at Lower Organizational Levels than Allowed by the Gun-Free Schools Act

Major Issues Identified in the Draft Report:

- At one LEA, the decisions to modify the expulsion requirement for students with disabilities were made either by the school principal or staff in the district discipline unit. In a case found at the LEA, the principal made the decision to stop the expulsion process when the Individualized Education Program (IEP) team determined that the student's behavior was a manifestation of his or her disability or that the student was not appropriately placed at the time of the incident. Principals had the option of forwarding the case to the district discipline unit for review by a special education specialist.
- The LEA's procedures did not require either the superintendent or the district's governing board to review the decisions.
- No evidence was found that either the superintendent or board was made aware of the firearm incidents or decisions to modify the expulsion requirement. Section 14601(b)(1) of GFSA specifies that State law shall allow the LEA's chief administering officer (superintendent, under board direction, per State guidance issued 12/23/96) to modify (shorten length, suspend enforcement, or not expel) expulsion requirements on a case-by-case basis. [Reference *Ed. Code sections 48916 and 48915(c)*]
- The governing board, under *Ed. Code* section 48915.5(a), is required to modify the expulsion requirement (not expel) for students with disabilities when an IEP team determines that the students' actions were a manifestation of their disability or the students were not appropriately placed at the time.
- The Office of Special Education Programs (OSEP) issued guidance to State educational agencies advising them that GFSA compliance may be achieved consistently with the requirements that apply to students with disabilities as long as discipline of such students is determined on a case-by-case basis in accordance with the disability laws. OSEP confirmed (Memorandum 95-16, dated April 26, 1995) with State educational agencies that only the chief administering officer is authorized to make a decision to not expel the student.

Recommendation for Finding 2:

"The Assistant Secretary for OESE should work with the Assistant Secretary of OSERS to require CDE to:

- 2-1. *Ensure that LEAs have policies and procedures in place that comply with the requirement that only the chief administering officer, as defined by CDE, is authorized to*

make case-by-case decisions to not expel students who bring a firearm to school, including incidents involving students with disabilities."

CDE's Response:

It is not necessary for the Office of Elementary and Secondary Education (OESE) or Office of Special Education and Rehabilitative Services (OSERS) to require CDE to carry out *Recommendation 2-1*, since the audit issue appears to be limited to one LEA. There is no evidence to indicate that a systemic problem exists in other LEAs. CDE will request the LEA where the audit issue was raised to promptly address the issue and take appropriate corrective actions. (SEE OIG NOTE 2)

In administering the GFSA for 1997-98 and 1998-99, CDE advised all LEAs in writing of the GFSA reporting requirements including the provisions which allow each LEA's chief administering officer to modify the one-year expulsion requirement on a case-by-case basis. The instructions to be issued to LEAs for completing the 1999-2000 GFSA Report will be revised to emphasize that only the LEA's chief administering officer, the superintendent of schools under direction of the governing board, has the authority to modify the expulsion requirement.

Finding 3. CDE and LEAs Made Errors When Compiling Expulsion Information for Gun-Free Schools Act Reports

Major Issues Identified in the Draft Report:

- Both CDE and LEAs made errors in compiling expulsion information for their reports. CDE errors in compiling the 1997-98 statewide report included: underreporting four expulsions due to a problem with the electronic spreadsheet formula; over-reporting one expulsion for an LEA due to a misinterpretation of wording on the LEA's report; and erroneous transfers of statewide totals from the spreadsheet to the report form.
- LEAs' errors in compiling information for reports to be submitted to CDE that led to over-reporting or under-reporting included:
 - α firearm definition— inadequate understanding of the GFSA definition of firearm;
 - α timing of expulsion—incorrectly including expulsions based on the date of the firearm incident rather than the date of the expulsion;
 - α shortened expulsions—failure to identify expulsions that were less than a year for incidents involving explosives and State law does not mandate a one-year expulsion for such incidents;

- α incomplete and/or inaccurate database records—one LEA erroneously excluded five expulsions involving firearms due to missing dates from the database for one board meeting, and the LEA improperly included a BB gun and toy gun as a firearm with no procedures in place to update the database correctly; and
- α retention of pertinent documentation—one LEA was unable to provide original documentation supporting reports submitted to CDE and had no written procedures for replication of the documentation from its database. (*Title 34 Code of Federal Regulations section 80.42*, requires supporting documents, statistical records and other records which are reasonably considered as pertinent to program regulations to be maintained for three years).

Recommendations for Finding 3:

"The Assistant Secretary for OESE should require CDE to:

- 3-1. *Implement review procedures to ensure that LEA expulsion information is accurately reflected on its Gun-Free Schools Act reports submitted to the Department.*
- 3-2. *Emphasize to LEAs the importance of submitting accurate data on their reports and issue guidance on applying the Title 18 U.S.C. section 921 firearm definition and the timing of expulsions to be included in the reports.*
- 3-3. *Require LEAs to retain supporting documentation for reports submitted to CDE for a period of three years."*

CDE's Response:

Recommendation 3.1—CDE agrees with this recommendation. As a result of CDE comparing GFSA expulsion information compiled for the 1998-99 statewide report with the prior year, errors were found in the total numbers included in the 1997-98 GFSA Report submitted to the United States Department of Education (USDE). At the entrance meeting, CDE brought attention to reporting discrepancies, and CDE reported the errors and corrections to USDE. CDE has developed a review process, which includes year-to-year data comparisons to ensure that errors of this nature are not repeated. CDE has developed internal review procedures for more accurate reporting to USDE.

CDE's current review process includes the following procedures:

- To verify that all LEAs have submitted reports, CDE makes a cross-check between reports received and CDE's database which identifies all LEAs. If a report is not received from an LEA, CDE staff make follow-up inquiries by telephone and/or letter to obtain the delinquent report.

- CDE reviews each reporting form for completeness and consistency. Staff contact LEAs (telephone and/or letter) about any missing or questionable data information.
- After CDE staff enter information from the forms into an internal database, they confirm data from the forms are accurately reflected in the database.

Recommendation 3.2—CDE agrees with the recommendation and will seek federal technical assistance.

CDE revised its GFSR Reporting Form and reporting instructions (draft copies attached) to indicate that certain weapons and devices are not reportable under GFSR requirements (e.g., BB guns, stun guns, pellet guns, and imitation or simulated guns) and to emphasize the importance of submitting accurate data for the GFSR. CDE also expanded the 1999-2000 GFSR Reporting Form and now requires LEAs to specify the type of "other firearm."

Each firearm identified by LEAs will be closely reviewed by staff for applicability to the GFSR definition of "other firearm." However, to facilitate this review, CDE requests guidance and assistance from USDE and/or Federal Bureau of Alcohol, Tobacco, and Firearms (FBATF) in identifying a comprehensive list of weapons and devices that do not meet the GFSR definition of firearm. CDE will then distribute the information to our LEAs as a resource tool in completing the GFSR Reporting Form. CDE will also follow up on any questionable firearms with the reporting LEA and if necessary consult with the USDE and/or FBATF.

Recommendation 3.3—CDE agrees with the recommendation.

CDE will include an insert in the revised instructions for the 1999-2000 GFSR Report that states: "Each LEA is required, under provisions of *Title 34, Code of Federal Regulations section 80.42*, to maintain for three years supporting documents, statistical records and other records which are reasonably considered pertinent to GFSR program regulations."

Finding 4. LEAs Did Not Provide CDE with School-Level Data as Required by the Gun-Free Schools Act

Major Issues Identified in the Draft Report:

- LEAs did not provide CDE with the individual school-level information (name of school) required in the *GFSR section 14601(d)(2)* because the reporting form provided to the LEAs by CDE did not specifically request this information.

Recommendations for Finding 4:

"The Assistant Secretary for OESE should require that CDE:

GUN-FREE SCHOOLS ACT OF 1994
RESPONSE TO FINDINGS AND RECOMMENDATIONS

page 7

- 4-1. *Inform the LEAs of the requirement to provide CDE with the individual school-level information listed in the Gun-Free Schools Act. To facilitate the reporting of this information, CDE should consider expanding its LEA reporting form to include the name of the school(s), the number of students expelled from such school(s), and the type of weapons involved at the school(s)."*

CDE's Response:

CDE agrees with Recommendation 4.1. CDE should inform LEAs of the requirement to provide CDE with individual school-level information consistent with provisions of the GFSA; and CDE has already expanded the 1999-2000 GFSA Report, to be completed by the LEAs, to provide for the required school-level information.

Attached for reference is a draft of the reporting form that has been reformatted to fully comply with GFSA reporting requirements. A draft of the revised instructions for completing the form is also attached.

1999-2000 Local Education Agency (LEA) Reporting Form for Federal Gun-Free Schools Act (GFSA)

California Department of Education

Consolidated Application

<p>Purpose: The Gun-Free Schools Act requires districts and county offices of education requesting Elementary and Secondary Education Act (ESEA) funds to submit to the Department of Education expulsion information related to firearms.</p> <p>All LEAs must complete and submit the GFSA Reporting Form annually.</p>	<p>Agency: _____</p> <hr/> <p>CD code: _____</p> <hr/> <p>Submission: <input type="checkbox"/> original <input type="checkbox"/> page not applicable <input type="checkbox"/> revision / / date</p>
<p>Name and Title of Person Completing the GFSA Report: _____</p>	<p>Date: _____ Telephone: () _____ Fax: () _____</p>
<p>LEA's Mailing Address: _____</p>	

A. Do you have any expulsions to report, for students who have brought a firearm to school (Check the applicable box)?

- Yes (if yes, complete each item, B-H, for each expulsion.) No (If no, submit this form with top portion completed.)

(Only include in this report students who have been officially expelled, by vote of the governing board, during the 1999-2000 school year.)

B. School Code (7 digits)	C. School Name	D. Student's Grade Level	E. * Type of firearm for which student was expelled-(Check one)	F. Was this student referred to an alternative school or program?	Modifications on a case-by-case bases.	
					G. Was this expulsion shortened to a term of less than one year?	H. Was this student disabled as defined in section 602(1)(1) of the IDEA?*
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

* Expulsions for students who have brought a BB gun, Pellet gun, Stun gun, or Imitation/simulated gun are not reportable under the GFSA requirements. See general directions for further details.

** Refer to pages of instruction for a brief description of the IDEA.

1999-2000 Federal Gun-Free Schools Act Form -- Continued

California Department of Education

Consolidated Application

Purpose: The Gun-Free Schools Act requires districts and county offices of education requesting Elementary and Secondary Education Act (ESEA) funds to submit to the Department of Education expulsion information related to firearms.

*This is a continuation of ConApp page 36.
Please reproduce this page if additional expulsions need to be reported.*

Agency:			
CD code:			
Submission:	<input type="checkbox"/> original	<input type="checkbox"/> page not applicable	
	<input type="checkbox"/> revision	/ /	date

B. School Code (7 digits)	C. School Name	D. Student's Grade Level	E. Type of firearm for which student was expelled (Check one)	F. Was this student referred to an alternative school or program?	Modifications on a case-by-case bases.	
					G. Was this expulsion shortened to a term of less than one year?	H. Was this student disabled as defined in section 602(1)(1) of the IDEA?
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
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-----			<input type="checkbox"/> Handgun <input type="checkbox"/> Shotgun/Rifle <input type="checkbox"/> Other (Specify) _____	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

Page 36: 1999-2000 Gun-Free Schools Act Report

This page is for the school district and county office of education to report for the 1999-2000 school year, under provisions of the Federal Gun-Free School Act (GFSA) of 1994 and California Education Code, expulsion information on students who were found to have brought a firearm to school. *It is imperative that the expulsion data be reported accurately and consistently.* The information will be compiled by the California Department of Education and included into an annual report that is required to be sent to the U.S. Department of Education concerning implementation of the Act's requirements (Part F of the Title XIV of the Elementary and Secondary Education Act [ESEA] IX).

Background: The GFSA and the *California Education Code* Section 48916 require LEAs to expel a student from school for a period of not less than one calendar year who is determined to have brought a weapon (firearm) to school and allow each LEA's chief administering officer to modify the one-year expulsion requirement on a case-by-case basis. *The "chief administering officer" of each LEA is not defined by GFSA and may mean either the superintendent or the school board. In California, the chief administering officer of the LEA is the superintendent, acting under the direction of the governing board, so the superintendent is responsible for carrying-out the decision to modify expulsion terms (shorten length, suspend enforcement, or not expel).* The GFSA also states that nothing in the Act shall be construed to prevent a State from allowing a local education agency that has expelled a student from such student's regular school setting from providing educational services to that student in an alternative setting. *California Education Code* section 48916.1 requires districts to "ensure" that an education program is provided to the pupil who is subject to the expulsion order for the period of the expulsion."

Consistent with provisions of the GFSA and *California Education Code* (including sections 48915, 48916, 48916.1, and 48902), the California Department of Education (CDE) has established legal assurances (#14, #15, and #16) in the Consolidated Application, Part I that require the local education agency to certify its adherence to the following:

- ◆ The LEA's board of trustees has a policy in compliance with state law requiring LEA's to expel from school for a period of not less than one year a student who is determined to have brought a firearm to school;
- ◆ The LEA will submit on a format to be designated by the state education agency the information that the state requires to complete federal reporting requirements on the number of students annually expelled from school for possession of firearms; and
- ◆ The LEA has adopted a policy requiring referral to the criminal justice or juvenile delinquency system of any student who brings a firearm or weapon to school.

Note: In order for the LEA to be eligible to receive any ESEA funds, it must adhere to these legal assurances.

The CDE is required to report to the U.S. Department of Education (USDOE) about the LEA's compliance with requirements in the GFSA. The information requested by the USDOE includes the names and addresses of each LEA that has not provided legal assurances, as described above, and responses on firearms expulsions that are required in Items A. through H. on the GFSA Report.

General Directions:

1. The time period covered by this report is the 1999-2000 school year. Only include students who have been officially expelled for bringing a firearm to school, by vote of the school board, during the 1999-2000 school year.
2. The entire report form must be completed as applicable. If no firearm related expulsions have occurred, complete only the top portion of the reporting form through **Item A**. Continue completing the report if there are expulsions to report from students who were found to have brought firearm to school. For each expulsion to be reported, **Items B through H** must be completed.

- ◆ It is advisable for the LEA to retain a copy of the completed form for reference if there are any follow-up inquiries regarding any of the responses. *Title 34, Code of Federal Regulations, Section 80.42, requires supporting documents, statistical records and other records which are reasonably considered as pertinent to program regulations to be maintained for three years.*
 - ◆ Any questions that may arise about completing any part of the form, can be directed to the Safe Schools and Violence Prevention Office, California Department of Education at (916) 323-2183.
3. *Item E requires that a box be checked for the type of firearm for which the student has been expelled. If the box for "Other" type of firearm has been checked, please specify the type of firearm. Please note, however, BB guns, pellet guns, stun guns, and imitation/simulated guns are not considered to be "Other" firearms under GFSA requirement -- (Source: Federal Bureau of Alcohol, Tobacco, and Firearms). Therefore, do not include expulsions for them on the GFSA Reporting Form.*

Definitions: (Applicable to Item E)

Other Firearms: Firearms other than handguns, rifles or shotguns. According to United States Code, Title 18, Section 921, the following are included with the definition:

- ◆ Any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive;
- ◆ Any frame or receiver of any weapon described above;
- ◆ Any firearm muffler or firearm silencer
- ◆ Any destructive device, which includes:
 - (a) any explosive, incendiary, or poison gas
 - (1) bomb,
 - (2) grenade,
 - (3) rocket having a propellant charge of more than four ounces,

- (4) missile having an explosive or incendiary charge of more than one-quarter ounce,
 - (5) mine,
 - (6) similar device;
- (b) any weapon which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter;
- (c) any combination or parts either designed to or intended for use in converting any device into any destructive device described in the two immediately preceding examples, and from which a destructive device may be readily assembled.

4. *Please note: Although California Education Code Section 48915(a)(2) allows some discretion in recommending expulsions for students who bring explosives to school, GFSA provisions require a one-year expulsion for students who bring destructive devices to school, including explosives, as included in the firearm definition in the United States Code, Title 18, Section 921(a)(4).*

Students with Disabilities as defined in Section 602 (a)(1) of the Individuals with Disabilities Education Act (IDEA):

The GFSA explicitly states that the ACT must be construed in a manner consistent with the IDEA. Compliance with the GFSA can be achieved consistent with the IDEA as long as discipline of such students is determined on a case-by-case basis under the GFSA provision that permits modification of the expulsion requirement on a case-by-case basis. A student with a disability who brings a firearm to school may be removed from school for ten school days or less, and in accordance with State law, placed in an interim alternative educational setting that is determined by the student's individualized education program team, for up to 45 calendar days.

If the student's parents initiate due process proceedings under the IDEA, the student must remain in that interim alternative educational setting during authorized review proceedings, unless the parents and school district can

agree on a different placement. Before an expulsion can occur, the IDEA requires a determination by a group of persons knowledgeable about the student on whether the bringing of a firearm to school was a manifestation of the student's disability.

A student with a disability may be expelled only if this group of persons determines that the bringing of a firearm to school was not a manifestation of the student's disability, and the school follows applicable IDEA procedural safeguards before the expulsion occurs. Under IDEA, students with disabilities who are expelled in accordance with the conditions must continue to receive educational services during the expulsion period. Under section 602(a)(1) of the IDEA, the term "children with disabilities" is defined as:

children --

- (i) with mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments, including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and
- (ii) who, by reason thereof, need special education and related services.

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