



Book	Policy Manual
Section	Board Review Spring 2021
Title	Vol. 35, No. 1 - August 2020 Revised EMERGENCY REMOVAL, SUSPENSION, AND EXPULSION OF STUDENTS
Code	po5610
Status	
Adopted	November 1, 2016
Last Revised	November 15, 2018

5610 - **EMERGENCY REMOVAL, SUSPENSION, AND EXPULSION OF STUDENTS**

The Board of Education is continually concerned about the safety and welfare of District students and staff and, therefore, will not tolerate behavior that creates an unsafe environment, a threat to safety or undue disruption of the educational environment.

Factors to be Considered Before Suspending or Expelling a Student

The Board of Education also recognizes that exclusion from the educational program of the schools is a severe sanction that should only be imposed after careful and appropriate consideration. ~~Except as otherwise noted below with respect to possession of a firearm in a weapon free school zone, if suspension or expulsion of a student is considered, the () Board () Superintendent shall consider the following factors prior to making a determination of whether to suspend or expel:~~

Except as otherwise noted below with respect to possession of a firearm in a weapon free school zone, if suspension or expulsion of a student is considered, the Board (Superintendent) shall consider the following factors prior to making a determination of whether to suspend or expel:

- A. the student's age
- B. the student's disciplinary history
- C. whether the student has a disability
- D. the seriousness of the violation or behavior
- E. whether the violation or behavior committed by the student threatened the safety of any student or staff member
- F. whether restorative practices will be used to address the violation or behavior
- G. whether a lesser intervention would properly address the violation or behavior

The (x) Board () ~~Superintendent~~ will exercise discretion over whether or not to suspend or expel a student. In exercising that discretion for a suspension of more than ten (10) days or expulsion, there is a rebuttable presumption that a suspension or expulsion is not justified unless the (x) Board () ~~Superintendent~~ can demonstrate that it considered each of the factors listed above. For a suspension of ten (10) days or fewer, there is no rebuttable presumption, but the (x) Board () ~~Superintendent~~ will still consider these factors in making the determination.

Restorative Practices

The () ~~Board~~ (x) **Superintendent** shall consider using restorative practices as an alternative to or in addition to suspension or expulsion. If the District determines that it will utilize restorative practices in addition to or as an alternative to suspension or

expulsion of a student, it will engage in restorative practices which emphasize repairing the harm to the victim and school community caused by the student's misconduct.

Restorative practices should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption and harassment and cyberbullying.

If the ~~()~~ **Board** (**x**) **Superintendent** decides to utilize restorative practices as an alternative to or in addition to suspension or expulsion, the restorative practices may include victim-offender conferences that:

- A. are initiated by the victim;
- B. are approved by the victim's parent or legal guardian or, if the victim is at least fifteen (15), by the victim;
- C. are attended voluntarily by the victim, a victim advocate, the offender, members of the school community, and supporters of the victim and the offender (the "restorative practices team");
- D. would provide an opportunity for the offender to accept responsibility for the harm caused to those affected, and to participate in setting consequences to repair the harm, such as requiring the student to apologize; participate in community service, restoration of emotional or material losses, or counseling; pay restitution; or any combination of these.

The selected consequences and time limits for their completion will be incorporated into an agreement to be signed by all participants.

Due Process

The Board recognizes exclusion from the educational programs of the District, whether by suspension or expulsion, is the most severe sanction that can be imposed on a student and is one that cannot be imposed without appropriate due process, since exclusion deprives a child of the right to an education. The Board also recognizes that it may be necessary for a teacher to remove a student from class for conduct disruptive to the learning environment, and that such removals are not subject to a prior hearing, provided the removal is for a period of less than twenty-four (24) hours. However, if an emergency removal may result in a suspension, then due process must be ensured.

In ~~all~~ cases resulting in short-term suspension, the Building Administrator shall check to make sure the student is not classified as disabled under Section 504. In cases of long-term suspension or expulsion, appropriate due process rights described in Policy 5611 and AG 5610 must be observed. The Office of School Culture shall check to make sure the student is not classified as disabled under Section 504. Students with disabilities under IDEA or Section 504 shall be expelled only in accordance with their rights under Federal law.

For purposes of this policy, suspension shall be either short-term (not more than ten (10) days) or long-term (for more than ten (10) days but less than permanent expulsion) removal of a student from a regular District program. The Superintendent may suspend a student for a period not to exceed 10 school days.

For purposes of this policy, unless otherwise defined in Federal and/or State law, expulsion is defined as the permanent exclusion of a student from the District. Students who are expelled may petition for reinstatement as provided below.

Emergency Removal or Short-Term Suspension

A student may be removed from a class, subject, or activity for one (1) day by his/her teacher for certain conduct as specified in the Code of Conduct, or he/she may be given a short-term suspension by the Superintendent. A student so removed

(**x**) may

~~() may not~~

be allowed to attend other classes taught by other teachers during the term of the one (1) day removal. A student removed from the same class for ten (10) days will be entitled to the process for short-term suspensions outlined in AG 5610. A student removed from the same class for more than ten (10) days will be entitled to the process for long-term suspensions outlined in AG 5610. The Board designates the Superintendent as its representative at any hearings regarding the appeal of a suspension.

Long-Term Suspension or Expulsion

Due process set out in Policy 5611 and AG 5610 shall be followed in all circumstances in which a student may be expelled or suspended for a period of more than ten (10) days.

[CHOOSE OPTION #1, OPTION #2, OR OPTION #3]

☒ [OPTION #1]

The Office of School Culture ~~Superintendent~~ may recommend to the Board a long-term suspension or that a student be expelled.

OR

☐ [OPTION #2]

~~The Superintendent may act as the hearing officer. The Board may suspend a student for a period longer than ten (10) days or expel a student. An appeal may be made to the () Board () the appropriate court of law if there is a claimed violation of substantive or procedural due process rights.~~

OR

☐ [OPTION #3]

~~The Superintendent may suspend a student for a period longer than ten (10) days or expel a student. The Board shall act on any appeal to the decision.~~

[END OF OPTIONS]

In all cases resulting in short-term suspension, long-term suspension, or expulsion, appropriate due process rights must be observed. In determining whether a student is to be suspended or expelled, District Administrators shall use a preponderance of evidence standard.

The Superintendent shall develop procedures to implement this policy that shall include the following:

- A. strategies for providing special assistance to students in danger of being expelled and not achieving the academic outcomes of the District's core curriculum;
- B. standards of behavior for all students in accordance with District Board policy on student discipline;
- C. procedures that ensure due process; and
- D. provision for make-up work at home, when appropriate.

When making a determination whether or not a student will be expelled or permanently excluded under this policy, the Superintendent shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315 - Information Management (i.e. "Litigation Hold")) created and/or received as part of an investigation.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

Persistent Disobedience or Gross Misconduct/CSC Against Another District Student

Any student may be removed from the classroom, and/or, after consideration of the factors identified above, suspended or expelled for persistent disobedience or gross misconduct or if the student commits criminal sexual conduct against another student enrolled in the District regardless of the location of the conduct. A student may not be expelled or excluded from the regular school program based on pregnancy status.

☒ [X] In recognition of the negative impact on a student's education, the Board encourages the District's administrators to view suspensions, particularly those over ten (10) days, and permanent expulsions as discipline of last resort, except where these disciplines are required by law. Alternatives to avoid or to improve undesirable behaviors should be explored when possible prior to implementing or requesting a suspension or expulsion.

Physical and Verbal Assault

Unless a different determination is made after consideration of the factors identified above, the District shall permanently expel a student in grade six or above if that student commits physical assault at school against a staff member, a volunteer, or a contractor.

Unless a different determination is made after consideration of the factors identified above, the District shall suspend or expel a student in grade six or above for up to one hundred eighty (180) school days if the student commits physical assault at school against another student.

Physical assault is defined as "intentionally causing or attempting to cause physical harm to another through force or violence."

Unless a different determination is made after consideration of the factors identified above, the District shall suspend or expel a student in grade six or above and may discipline, suspend or expel a student in grade five (5) and below for a period of time as determined at the Board's discretion if the student commits verbal assault at school against a District employee, volunteer, or contractor or makes a bomb threat or similar threat directed at school building, property, or at a school-related activity.

Verbal assault is a communicated intent to inflict physical or other harm on another person, with a present intent and ability to act on the threat.

"At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event whether or not it is held on school premises.

[**x**] The District may provide appropriate instructional services at home for an expelled student not placed in an Alternative Education Program. The instructional services provided shall be similar to those provided to homebound or hospitalized students and shall be contracted for in the same manner.

Weapons, Arson, Criminal Sexual Conduct

In compliance with State and Federal law, and unless a different determination is made after consideration of the factors identified above, the District shall expel any student who possesses a dangerous weapon, other than a firearm, in the District's weapon-free school zone (except as noted below), commits either arson or criminal sexual conduct in a school building or on school property, including school buses and other District transportation, or pleads to, is convicted of or is adjudicated of criminal sexual conduct against another student enrolled in the District.

In compliance with State and Federal law, the District shall expel any student who possesses a firearm in the District's weapon-free school zone in violation of State law, unless the student can establish the mitigating factors relating to possession of a dangerous weapon set out below, by clear and convincing evidence.

For purposes of this policy, a "dangerous weapon" is defined by law as a firearm, dagger, dirk, stiletto, knife with a blade over three (3) inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles. This definition also includes other devices designed to (or likely to) inflict bodily harm, including, but not limited to, air guns and explosive devices. The term "firearm" is defined as any weapon (including a starter gun) that will, is designed to, or may readily be converted to expel a projectile by the action of the explosive, the frame, or the bearer of any such weapon, as well as a firearm muffler, firearm silencer, or any such destructive device.

The District need not expel a student for possession of a dangerous weapon, including a firearm, if the student can establish in a clear and convincing manner the following mitigating factor(s) to the satisfaction of the Board the:

- A. object or instrument was not possessed for use as a weapon, or for direct (or indirect) delivery to another person for use as a weapon; or
- B. weapon was not knowingly possessed; or
- C. student did not know (or have reason to know) that the object or instrument in his/her possession constituted a dangerous weapon; or
- D. weapon was possessed at the suggestion, request, direction of, or with the express permission of the Superintendent or the police.

There is a rebuttable presumption that expulsion for possessing the weapon is not justified if the (**x**) **Board** (~~→~~) **Superintendent** determines in writing that the student has established that he or she fits under one of the exceptions above by clear and convincing evidence, and that the student has no previous history of suspension or expulsion.

For expulsions for dangerous weapons, arson, criminal sexual conduct or assault upon an employee, volunteer or contractor, the Superintendent shall provide that the expulsion is duly noted in the student's record, the student is referred to the Department of Human Services or Department of Community Health within three (3) school days after the expulsion, and the parents are informed of the referral. Furthermore, if a student who is expelled is below the age of sixteen (16), the Superintendent shall ensure notification of the expulsion is given to the Juvenile Division of the Probate Court. In compliance with Federal law, the Superintendent shall also refer any student (regardless of age) expelled for possession of a dangerous weapon to the criminal justice or juvenile delinquency system serving the District. In addition, the Superintendent shall send a copy of this policy to the State Department of Education and shall include a description of the circumstances surrounding the expulsion of the student for

possessing a firearm or weapon in the District's weapon-free school zone, together with the name of the District, the number of students so expelled, and the types of firearms or weapons brought into the weapon-free school zone.

A student expelled under this policy for dangerous weapons, arson, criminal sexual conduct or assault upon an employee, volunteer or contractor may apply for reinstatement in accordance with the following guidelines:

- A. If the student is in grade five (5) or below at the time of the expulsion and was expelled for possessing a firearm or threatening another person with a dangerous weapon, the parents, legal guardian, adult student, or emancipated minor may submit a request for reinstatement after sixty (60) school days from the date of expulsion, but the student may not be reinstated before ninety (90) school days from the expulsion date.
- B. If the student is in grade five (5) or below at the time of the expulsion and was expelled for a reason other than possessing a firearm or threatening another person with a dangerous weapon, the parents, legal guardian, or emancipated minor may submit a request for reinstatement at any time, but the student may not be reinstated before ten (10) school days from the expulsion date.
- C. If the student is in grade six (6) or above at the time of the expulsion, the parents, legal guardian, adult student, or emancipated minor may submit a request for reinstatement after 150 school days from the date of the expulsion, but the student may not be reinstated before 180 school days from the expulsion date.
- D. The parent, adult student, or emancipated minor shall submit the request for reinstatement to the Superintendent.
- E. Within ten (10) school days after receiving the petition, the Board shall appoint a committee consisting of two (2) Board members, a school administrator, a teacher, and a school-parent representative. During this time period, the Superintendent shall prepare and submit for consideration by the committee information concerning the circumstances of the expulsion and any factors mitigating for or against reinstatement.
- F. Within ten (10) school days after being appointed, the committee shall review all pertinent information and submit its recommendation to the Board. The recommendation may be for unconditional reinstatement, conditional reinstatement, or non-reinstatement, based on the committee's consideration of the following the:
 - 1. extent to which reinstatement would create a risk of harm to students or school staff;
 - 2. extent to which reinstatement would create a risk of school or individual liability for the Board or school staff;
 - 3. age and maturity of the student;
 - 4. student's school record before the expulsion incident;
 - 5. student's attitude concerning the expulsion incident;
 - 6. student's behavior since the expulsion and the prospects for remediation;
- G. The degree of cooperation and support the parent has provided and will provide if the student is reinstated (if the request was filed by a parent), including, but not limited to the parent's receptiveness toward any conditions placed on the reinstatement. Such conditions, for example, might include a written agreement by the student and/or a parent who filed the reinstatement request to accomplish the following:
 - 1. abide by a behavior contract involving the student, his/her parents, and an outside agency;
 - 2. participate in an anger management program or other counseling activities;
 - 3. cooperate in processing and discussing periodic progress reviews;
 - 4. meet other conditions deemed appropriate by the committee;
 - 5. accept the consequences for not fulfilling the agreed upon conditions.

The Board shall make its decision no later than the next regular Board meeting following the committee's submission of its recommendations. The Board's decision shall be final and is not subject to appeal.

In the event a student who has been permanently expelled from another school requests admission to this District, in making its decision, the Board shall follow the same procedure it has established in paragraphs A-F, above, for the reinstatement of a student.

Students expelled for reasons other than dangerous weapons, arson, criminal sexual conduct or assault upon an employee, volunteer or contractor may also petition the Board for reinstatement. The Board may, at its discretion, consider the petition (x) in accordance with the procedures set forth above ~~(-) or upon any standards and with any procedures it determines appropriate under the circumstances.~~

The Superintendent shall ensure Board policies and procedures regarding a student's rights to due process are followed when dealing with a possible suspension or expulsion under this policy.

In-School Discipline

The purpose of this policy is to provide an alternative to out of school suspension. The availability of in-school discipline options is dependent upon the financial ability of the Board to support such a program.

In-school discipline will only be offered at the discretion of the Superintendent for offenses found in the Student Code of Conduct.

The Superintendent is to establish procedures for the proper operation of such a program and to ensure appropriate due-process procedures are followed as applicable. (See Policy 5630.01)

Due Process Rights

The Board recognizes the importance of safeguarding a student's constitutional rights, particularly when subject to the District's disciplinary procedures.

To better ensure appropriate due-process is provided a student, the Board establishes the following:

A. Students Subject to Short-Term Suspension

Except when emergency removal is warranted, a student must be given at least oral notice of the charges against him/her and the opportunity to respond prior to the implementation of a suspension. When emergency removal has been implemented, notice and opportunity to respond shall occur as soon as reasonably possible. The Superintendent or other designated administrator shall provide the opportunity to be heard and shall be responsible for making the suspension decision. An appeal may be addressed to the Superintendent whose decision will be final.

B. Students Subject to Long-Term Suspension and Expulsion

A student and his/her parent or guardian must be given written notice of the intention to suspend or expel and the reasons therefor, and must also be given an opportunity to appear before the Board with a representative to answer the charges. The student and/or his/her guardian must also be provided a brief description of the student's rights and the hearing procedure, a list of the witnesses who will provide testimony to the Board, and a summary of the facts to which the witnesses will testify. At the student/parent's request, the hearing shall be held in closed session, but the Board must act publicly. The Board shall act by providing a written decision on any appeal of an expulsion, a request for reinstatement, or a request for admission after permanent expulsion from another school.

The Superintendent shall develop procedures to ensure all members of the staff use the above guidelines when dealing with students. In addition, this statement of due process rights shall be placed in all student handbooks, in a manner that facilitates understanding by students and their parents.

Corporal Punishment

While recognizing that students may require disciplinary action in various forms, the Board does not condone the use of unreasonable force and fear as an appropriate procedure in student discipline.

Staff shall not use physical force or violence to compel obedience. If all other means fail, staff members may always resort to the removal of the student from the classroom or District through suspension or expulsion procedures.

Within the scope of their employment, all staff may use reasonable force and apply restraint to accomplish the following:

- A. restrain or remove a student who refuses to comply with a request to behave or report to the office;

- B. quell a disturbance threatening physical injury to self or others;
- C. obtain possession of weapons or other dangerous objects within the control of the student, for either self-defense; or
- D. the protection of persons or property.

In accordance with State law, corporal punishment shall not be permitted. If any staff member (full-time, part-time, or substitute) deliberately inflicts, or causes to be inflicted, physical pain upon the student (by hitting, paddling, spanking, slapping or any other kind of physical force) as a means of discipline, the staff member may be subject to discipline and possibly criminal assault charges. This prohibition also applies to volunteers and those with whom the District contracts for services.

The Superintendent shall provide guidelines, including a list of alternatives to corporal punishment.

Removal, Suspension, and Expulsion of Students with Disabilities

The District shall abide by Federal and State laws in matters relating to discipline, suspension, and expulsion of disabled students.

© Neola ~~2018~~2020

Legal M.C.L. 380.1301, 380.1309, 380.1310d, 380.1311
 20 U.S.C. 3351
 State Board of Education, Resolution to Address School Discipline Issues
 Impacting Student Outcomes, Adopted June 12, 2012