

**REVISED POLICY - VOL. 31, NO. 2**

**EXPULSIONS/SUSPENSIONS - REQUIRED BY STATUTE**

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.

**Weapons, Arson, Criminal Sexual Conduct**

In compliance with State and Federal law, the Board ~~(Superintendent)~~ shall expel any student who possesses a dangerous weapon in a weapon-free school zone in violation of State law or commits either arson or criminal sexual conduct in a District building or on District property, including school buses and other school transportation.

For purposes of this policy, a dangerous weapon is defined 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" or 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: 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 the explosive; b) the frame or receiver of any such weapon; c) any firearm muffler or firearm silencer; or d) any destructive device. Such term does not include an antique firearm.

The ~~Board~~ (Superintendent) need not expel for possession of a dangerous weapon if the student can establish in a clear and convincing manner to the satisfaction of the ~~Board~~ (Superintendent) that:

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- A. the 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;
- B. the weapon was not knowingly possessed;
- C. the student did not know or have reason to know that the object or instrument possessed constituted a dangerous weapon; or
- D. the weapon was possessed at the suggestion, request, or direction of, or with the express permission of a District administrator or the police.

There is a rebuttable presumption that expulsion for possessing the weapon is not justified if the 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.

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The above exceptions will not apply to student misconduct involving sexual conduct or arson.

#### Physical and Verbal Assault

The Board shall permanently expel a student in grade six or above if that student commits physical assault at school against a District employee, volunteer, or contractor.

The Board shall suspend or expel a student in grade six or above for up to 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."

The Board shall suspend or expel a student in grade six or above and may discipline, suspend or expel a student in grade five 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.

Factors To Be Considered Before Suspending or Expelling a Student

Prior to suspending or expelling a student for any of the above statutorily mandated reasons, except as noted below, the Board (Superintendent) shall consider the following factors:

- 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

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The Board (Superintendent) will exercise discretion over whether or not to suspend or expel a student for the statutorily mandated reasons. 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 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 Board (Superintendent) will still consider the factors.

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Exception: If a student possesses a firearm in a weapon free school zone, the student will be permanently expelled without considering the above factors, unless the student can establish mitigating factors by clear and convincing evidence.

**OPTIONAL LANGUAGE**

[ x ] The District ~~will~~ may utilize restorative practices in addition to or as an alternative to suspension or expulsion of a student. The restorative practices will emphasize repairing the harm to the victim and school community in the correction of bullying behavior, which may include victim-offender conferences that:

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- 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.

#### Alternative Services

~~An expelled or suspended student may be enrolled in the ( ) District's Alternative Education Program ( ) or Evening High School upon the Superintendent's recommendation ( ) and Board approval. Students who are expelled for dangerous weapons, arson, criminal sexual conduct or assault upon an employee, volunteer or contractor and are enrolled in a program operated for expelled students shall be physically separated at all times during the school day from the general student population.~~

The District may provide appropriate instructional services at home for an expelled student who is not placed in an Alternative Education Program. The type of instructional services provided shall be similar to that provided to homebound or hospitalized students and shall be contracted for in the same manner.

Disabled students under IDEA or Section 504 shall be expelled only in accordance with Board Policy 5605 and Federal due process rights appropriate to these students.

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 and that the student has been referred to the Department of Human Services or Mental Health Department within three (3) school days after the expulsion and the parents have been informed of the referral. Furthermore, the Superintendent shall ensure that, if a student who is expelled is below the age of sixteen (16), then notification of the expulsion shall be 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 ensure that a copy of this policy and Policy 5610 is sent to the State Department of Education as well as a description of the circumstances surrounding the expulsion of a student for possessing a  **firearm** and/or  **weapon** in a weapon-free school zone together with the name of the school, the number of students so expelled, and the types of  **firearms** and / or  **weapons** that were brought into the weapon-free school zone and other reasons listed in Policy 8400.

A student who has been 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 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, the adult student, or the 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 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, the adult student, or the 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 6 or above at the time of the expulsion, the parents, legal guardian, the adult student, or the 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 on District Form 5610.01 F1.
- E. The Superintendent shall, within ten (10) school days after receiving the form, submit the request, together with any other information s/he deems pertinent to the requested reinstatement, to a Board-appointed committee consisting of two (2) Board members, a District administrator, a teacher, and a parent of a District student.
- F. The committee shall, within ten (10) school days after being appointed, 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:
  - 1. the extent to which reinstatement would create a risk of harm to students or school personnel;
  - 2. the extent to which reinstatement would create a risk of District or individual liability for the Board or District personnel;
  - 3. the age and maturity of the student;
  - 4. the student's school record before the expulsion incident;
  - 5. the student's attitude concerning the expulsion incident;
  - 6. the student's behavior since the expulsion and the prospects for remediation;

7. if the request was filed by a parent, the degree of cooperation and support the parent has provided and will provide if the student is reinstated, including, but not limited to the parent's receptiveness toward possible conditions placed on the reinstatement. Such conditions may, as an example, include a written agreement by the student and/or a parent who filed the reinstatement request to:
  - a. abide by a behavior contract which may involve the student, his/her parents, and an outside agency;
  - b. participate in an anger management program or other counseling activities;
  - c. cooperate in processing and discussing periodic progress reviews;
  - d. meet other conditions deemed appropriate by the committee;
  - e. accept the consequences for not fulfilling the agreed-upon conditions.

The committee may also allow the parent, adult student, or emancipated minor to propose conditions as part of the request for reinstatement.

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 not subject to appeal.

In the event a student who has been permanently expelled from another school district requests admission to this District, the Board shall, in making its decision,

- (x) follow the same procedure it has established in paragraph A-F above for the reinstatement of a District student.
- (+) ~~rely upon the recommendation of the Superintendent.~~



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 in accordance with:

the procedures set forth above.

**OR**

the standards and the procedures it determines to be appropriate under the circumstances.

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

M.C.L. 380.1310, 380.1311, 280.1310d, 380.1311a

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