

JICD Policy -REVISED -Required by Law

A. Policy Statement

This policy establishes the substantive parameters, procedures and due process that shall apply before a student may be subject to temporary (same day) removal from classrooms or activities, restriction from activities, detentions, suspensions and/or expulsion. Pursuant to Board Policy JIC, response to misconduct, including disciplinary measures and consequences should be designed to maximize student academic, emotional and social success, while at the same time assuring safety of all students, staff and school visitors. Administration of any of the consequences described in this policy shall be consistent with the system of supports and graduated sanctions established pursuant to Policy JIC and the applicable Code of Conduct.

B. Standards and Procedures Relative to Disciplinary Consequences

1. "Removal from the classroom" means a student is sent to the building Principal's office or other designated area during the same school day. It is within the discretion of the person in charge of the classroom or activity to remove the student. Students may be removed from the classroom at the classroom teacher's discretion if the student refuses to obey the teacher's directives, becomes disruptive, fails to abide by school or District rules, or the Code of Conduct, or otherwise impedes the educational purpose of the class. Before ordering the removal, the staff member ordering the removal shall warn the student of the infraction and allow the student to respond. Detentions are not appealable.

2. "Restriction from school activities" means a student will attend school, classes, but will not participate in other school extra-curricular activities, including such things as competitions, field trips, and performances. A student who has been restricted from school activities may participate in practices at the discretion of the person imposing the restriction.

Before ordering the restriction, the supervising employee (e.g., teacher, coach, director, Principal, etc.) ordering the restriction shall warn the student of the infraction and allow the student to respond. If the restriction is immediate and outside of school hours, provisions must be made to assure the student is not left unsupervised. The terms of the restriction shall be communicated to the Principal and the student's parent/guardian.

Restrictions under this policy are not appealable.

3. "Detention" means the student's presence is required for disciplinary purposes before or after the hours when the student is assigned to be in class.

Students may be assigned classroom detention at the classroom teacher's discretion, and building detention at the Principal's discretion, if the student refuses to obey the teacher/employee's directives, becomes disruptive, fails to abide by printed classroom, school or District rules, or the Code of Conduct, or otherwise impedes the educational purpose of the

class. Before ordering the detention, the staff member ordering the detention shall warn the student of the infraction and allow the student to respond. Parents/guardians shall be notified at least 24 hours prior to a student serving detention. Detentions before or after school shall not exceed one hour. The building Principal is authorized to establish, announce and post additional guidelines and rules regarding detention, supervision, building access, etc.. The length and timing of the detention is within the discretion of the licensed employee disciplining the student or the building Principal, pursuant to the posted rules of the school.

Detentions are not appealable.

4. "Temporary Reassignment" or "in-school suspension" means the student will attend school but will be temporarily isolated from one or more classes while under supervision. A temporary reassignment should not exceed five consecutive school days. Parents/guardians shall be notified prior to the administration of a temporary reassignment.

The building Principal is authorized to issue reassignment, restrictions from activities, or place a student on probation for repeated failure to conform to the Code of Conduct, classroom rules, or for any conduct that causes material or substantial disruption to the school/class environment, interferes with the rights of others, presents a threat to the health and safety of students, employees, and visitors, is otherwise inappropriate, or is prohibited by law.

5. "Probation" means a student is given a conditional suspension of a penalty for a definite period of time in addition to being reprimanded. The conditional suspension will mean the student must meet the conditions and terms for the suspension of the penalty. Failure of the student to meet these conditions and terms will result in reinstatement of the penalty. Notwithstanding the assignment of probation, no imposition of the suspended consequence may be administered unless and until all of the provisions of this policy applicable to the suspended consequence (i.e., long-term suspension, expulsion, etc.) are satisfied.

6. "Out-of-school suspension" means the temporary denial of a student's attendance at school for a specific period of time. It includes short-term and long term school suspensions.

a. Short-term suspension. A "short-term suspension" means an out-of-school suspension of ten (10) consecutive school days or less. RSA 193:13, I (a).

The Superintendent or his/her written designee is authorized to suspend a student for ten (10) school days or less.

A short-term suspension may be imposed only for:

i. Behavior that is detrimental to the health, safety, or welfare of pupils or school personnel (including, but not limited to, an act of theft, destruction or violence, as defined in RSA 193-D:1);
or

ii. Repeated and willful disregard of the reasonable rules of the school that is not remediated through imposition of the district's graduated sanctions described in JIC and the Code of Conduct.

Pursuant to RSA 193:13, XI(b) and Board policy JIC, a short-suspension over 5 days must conform to the standards included in the Code of Conduct.

Before any short-term suspension may be imposed, a student is entitled to the minimum due process (notice before meeting of the charge and explanation of evidence, notice of the possibility of suspension, opportunity for the student to respond, and a written decision explaining the disciplinary action taken). See New Hampshire Department of Education Rule Ed 317.04(f)(1).

The student and at least one of the student's parents/guardians will receive a written statement explaining any disciplinary action taken against the student.

b. Long-term suspension. A "long-term suspension" is the extension or continuation of a short-term suspension for a period not to exceed an additional 10 days beyond the duration of the short-term suspension.

The Superintendent is authorized to continue the suspension and issue a long term suspension of a pupil for a period in excess of ten (10) school days, provided only that if the Superintendent issued the original short-term suspension, then the School Board may designate another person to continue the short-term suspension and issue the long-term suspension.

A long-term suspension may only be imposed for:

- i. an act that constitutes an act of theft, destruction or violence, as defined in RSA 193-D;
- ii. bullying pursuant to Board Policy JICK when the pupil has not responded to targeted interventions and poses an ongoing threat to the safety or welfare of another student; or
- iii. possession of a firearm, BB gun, or paintball gun.

Prior to a long-term suspension, the student will be afforded a hearing on the matter. The informal hearing need not rise to the level and protocol of a formal hearing, but the process must comply with the requirements of Ed 317.04 (f)(2), and (f)(3)(g), including, without limitation, the requirements for advance notice and a written decision.

A student who is subject to a long-term suspension is entitled to the following due process:

- i. Upon recommendation of a long-term suspension and prior to any hearing, there shall be written communication to the student and at least one of the student's parents or guardians,

delivered in person or by mail to the student's last known address, which states the charges and an explanation of the evidence against the student.

ii. A hearing that meets the requirements of Ed 317.04(f)(3)(g).

a. The school officials shall present evidence in support of the charges and the student (or the student's parent/guardian) shall have an opportunity to present any defense or reply.

b. During the hearing, the student, parent/guardian shall have the right to examine any witnesses presented by school officials.

c. The hearing shall be either public or private and the choice shall be that of the student or the parent/guardian. Provided, nevertheless, that if the nature of the evidence will violate the privacy of other students or if the Superintendent or School Board determines that substantial harm to the pupil could result from an ill-conceived decision to hold the hearing in public, then the Board reserves the right and obligation to insist upon a private hearing.

d. The student may, together with a parent/guardian, waive the right to a hearing and admit to the charges.

iii. The student is entitled to a written decision which includes the legal and factual basis for the conclusion that the student should be suspended.

iv. Appeal of long-term suspension. Any long-term suspension issued other than by the School Board under this policy, is appealable to the School Board, provided the Superintendent or School Board chair receives the appeal in writing within ten (10) days after the issuance of the Superintendent's [or other person designated under B.6.b, above] hearing and written decision required under N.H. Dept. of Education Rule Ed. 317.04 (f)(2)c, and sub-paragraph B.6.b, above. The Board shall hold a hearing on the appeal but will rely upon the record of the decision being appealed from.

c. Any suspension in excess of ten (10) school days shall remain in effect while this appeal is pending unless the School Board stays the suspension while the appeal is pending. Any request to stay a long-term suspension should be included in the original appeal.

d. Educational Assignments. As required by RSA 193:13, V, educational assignments shall be made available to students during both short and long term suspensions.

e. Alternative Educational Services. The school shall provide alternative educational services to a suspended pupil whenever the pupil is suspended in excess of 20 cumulative days within any school year. The alternative educational services shall be designed to enable the pupil to advance from grade to grade.

f. Re-entry Meetings and Intervention Plans. Prior to returning to regular classes, a suspended student, and parent/guardian (when available) shall meet with the building Principal or his/her designee to assist the student in smoothly returning to the school setting. Any time a pupil is suspended more than 10 school days in any school year, upon the pupil's return to school the school district shall develop an intervention plan designed to proactively address the pupil's problematic behaviors by reviewing the problem behavior, re-teaching expectations, and identifying any necessary supports.

g. Attendance Safe Harbor. A student may not be penalized academically solely by virtue of missing class due to a suspension.

7. "Expulsion" means the complete denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13, II and IV. An expulsion may be for either a stated duration or permanent.

a. Grounds for Expulsion. Any pupil may only be expelled by the School Board, and only for the following grounds:

i. A repetition of an act that warranted long term suspension under section B.6.b, above;

ii. Any act of physical or sexual assault that would be a felony if committed by an adult;

iii. Any act of violence pursuant to RSA 651:5, XIII;

iv. Criminal threatening pursuant to RSA 631:4, II(a); or

v. For bringing or possessing a firearm as defined in Section 921 U.S.C. Title 18 within a safe school zone as prohibited under RSA 193-D:1, or under the Gun Free School Zones Act, unless such pupil has written authorization from the Superintendent.

Before expelling a pupil, the Board shall consider each of the following factors:

(1) The pupil's age.

(2) The pupil's disciplinary history.

(3) Whether the pupil is a student with a disability.

(4) The seriousness of the violation or behavior committed by the pupil.

(5) Whether the school district has implemented positive behavioral interventions under paragraph V.

(6) Whether a lesser intervention would properly address the violation or behavior committed by the pupil.

b. Due Process to Be Afforded Prior to Expulsion.

Prior to any expulsion, the District will ensure that the due process standards set forth in Ed 317.04(f)(3) through 317.04 (m) are followed.

During an expulsion, unless otherwise stipulated in writing, a student is not permitted to attend school classes or activities, school sponsored events, or occasion school property.

A student who is subject to expulsion is entitled to the following due process:

i. Upon recommendation of an expulsion and prior to any hearing, there shall be a written notice to the student and at least one of the student's parents/guardians, delivered in person or by mail to the student's last known address, which states the date, time and place for a hearing before the School Board. The notice shall be delivered to the student and at least one of the student's parents/guardians at least five calendar days prior to the hearing.

ii. The School Board shall conduct the hearing in accordance with New Hampshire Administrative Rule Ed 317.04(f)(3)(g).

a. The school officials shall present evidence in support of the charges and the student (or the student's parent/guardian) shall have an opportunity to present any defense or reply.

b. During the hearing, the student, or the parent/guardian shall have the right to examine any witnesses presented by school officials.

c. The hearing shall be either public or private and the choice shall be that of the student or the parent/guardian. Provided, nevertheless, that if the nature of the evidence will violate the privacy of other students or if the Board determines that substantial harm to the pupil could result from an ill-conceived decision to hold the hearing in public, then the Board reserves the right and obligation to insist upon a private hearing.

d. The student may, together with a parent/guardian, waive the right to a hearing and admit to the charges.

iii. The School Board shall issue a written decision stating whether the student is expelled and, if so, the length of the expulsion. If the decision is to expel, the decision must include the legal and factual basis for the decision including the specific statutory reference prohibiting the act for which the student is expelled.

iv. The expulsion shall run until the School Board reviews it and restores the student's permission to attend school. The written decision shall state any action that the student may take to be restored by the School Board. The decision shall also state that the student has the right to appeal the decision to the New Hampshire State Board of Education at any time while the expulsion remains in effect.

c. Educational Services. The Superintendent is authorized, but not required, to arrange for educational services to be provided to any student residing in the District who has been expelled by the District or by any other school.

C. Modification or Reinstatement After Suspension or Expulsion

Expelled or suspended students may request a modification of, or reinstatement from, an expulsion or suspension as provided below. Except for students establishing residency from out-of-state, requests for modification or reinstatement from expulsion/suspension shall be submitted in writing to the Superintendent no later than August 15. The request should set forth the reasons for the request and include additional information to establish that it is in the best interest of the student and school community to reinstate the student.

Such additional information may include such things as work history, letters of reference, medical information, etc. All reinstatements shall include an Intervention Plan as described in paragraph B.6.f, above, including such conditions as the

1. Modification by Superintendent. Subject to all other applicable laws, regulations and Board policies, and section D, below (relating to firearms), the Superintendent is authorized to reinstate any student who has been suspended or expelled from a school in this District, and or enroll a student suspended or expelled from another school or district, on a case-by-case basis.

2. Review and reinstatement by Board. A student may request the School Board (of the district of attendance) to review an expulsion decision prior to the start of each school year by filing a written request with the Superintendent detailing the basis of the request. The Board will determine whether and in what manner it will consider any such request after consultation with the Superintendent.

D. Possession of a Firearm

Pursuant to RSA 193:13, IV, any student who brings or possesses a firearm (as defined in 18 U.S.C. 921) in a safe school zone, as defined in RSA 193-D:1 without written authorization from the Superintendent or designee shall be expelled from school by the Epping School District School Board for a period of not less than 12 months.

Pursuant to RSA 193:13, IV, a student who is expelled from school in another state under the provisions of the Gun Free School Zones Act of 1994 shall not be eligible to enroll in the Epping School District during such expulsion. If the out of state expulsion is for an indefinite period of time, the student may petition the School Board for enrollment upon establishing residency.

As provided in RSA 193:13, VII, both of the above expulsions may be modified by the Superintendent upon review of the specific case in accordance with other applicable law. The expelled student must submit a written application to the Superintendent requesting modification of the expulsion, and the student will be required to submit sufficient evidence in the form of

letters, work history, or other documents that it is in the school's best interest and the student's best interest to allow a modification.

Modification of Expulsion for Firearms. A student who has been expelled from this District or any other public or private school for bringing or possessing a firearm in a safe school zone as prohibited under RSA 193-D1, or under the Gun Free Schools Act, may only be reinstated or enrolled if the Superintendent first determines: possession of the firearm was inadvertent and unknowing; the firearm was for sporting purposes and the student did not intend to display the firearm to any other person while within the safe schools zone; the student is/was in the fifth or lower grade when the incident occurred; or the Superintendent determines that the firearm was not loaded; and that no ammunition was reasonably available; and that the pupil had no intention to display the firearm to other students.

Additionally, the School Board may enroll a student expelled from a school outside of New Hampshire for a violation of the Gun Free Schools Act upon the student reinstating authority (Superintendent or Board) deem appropriate.establishing residency.

E. Appeals to the State Board of Education.

Any decision by the Board (i) to expel a student, (ii) not to reinstate a student upon request, or (iii) enroll a student from another state who had been expelled for a violation of the Gun Free Schools Act, may be appealed to the State Board of Education at any time that the expulsion remains in effect, subject to the rules of the State Board of Education.

F. Sub-committee of Board. For purposes of sections B.6 and B.7 of this policy, "Board" or "School Board" may either be a quorum of the full Board, or a subcommittee of the Board duly authorized by the School Board.

G. Superintendent and Principal Designees. Except where otherwise stated in this policy, the Superintendent may delegate any authority s/he has under this policy, and a principal may delegate any authority s/he has under this policy, to other appropriate personnel.

H. Disciplinary Removal of Students with Disabilities.

If a student is disabled under the Individuals with Disabilities Act (IDEA), the New Hampshire RSA 186-C, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, or any other law providing special rights to disabled students, those laws shall govern and shall supersede these local policies to the extent these local policies are inconsistent with those laws. Accordingly, any suspension or expulsion of a child with a disability as defined in Ed 1102.01(t) shall be in accordance with Ed 1124.01. I. Notice and Dissemination. This policy shall be made available to families, students and staff as provided in Board Policy JIC.

J. Conflict in Law or State Regulation.

If any provision of this policy shall conflict with State or Federal law, or regulation of the New Hampshire Department of Education, then such law or regulation shall apply, and the remainder of the policy shall be read and interpreted to be consistent with the law or regulation. School administrators and families are strongly encouraged to review the links for pertinent statutes and laws as referenced in this policy.

District Policy History:

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