

STUDENT DISCIPLINE AND DUE PROCESS

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 PBIS Student Behavior Expectations Matrix.

B. Standards and Procedures Relative to Disciplinary Consequences.

As stated in Policy JIC, the school district has adopted a multi-tiered system of support for behavioral health and wellness known as Positive Behavior Intervention Strategies (PBIS) as its framework for student conduct and standards for student behavior.

School District personnel who interact with students are expected to utilize progressive disciplinary measure as outlined in the PBIS Student Behavior Expectations Matrix. The disciplinary consequences in this section outline the graduated consequences that can be imposed to help students meet the District's behavior expectations.

1. "Removal from the classroom" means a student is removed from the classroom lesson or activities and brought to a designated area during the same school day.

Student removal from the classroom must follow the district and school expectations and guidelines outlined in the PBIS Student Behavior Expectations Matrix.

Removal from the classroom under this policy is 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 sports, competitions, field trips, and performances. A student who has been restricted from school activities may attend practices at the discretion of the building administration.

Student restriction from school activities must follow the district and school expectations and guidelines outlined in the PBIS Student Behavior Expectations Matrix.

Repeated restrictions from school activities shall be communicated by the building administration to the student's parent/guardian.

Restrictions from school activities under this policy are not appealable.

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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 and may occur on one or more Saturdays.

Students may be assigned classroom detention at the classroom teacher's discretion and building detention at the building administration's discretion. Student detentions must follow the adopted district and school expectations outlined in the PBIS Student Behavior Expectations Matrix.

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, and Saturday detentions shall not exceed three hours.

Detentions are not appealable.

4. "In-school suspension" means the student will attend school but will be temporarily isolated from one or more classes while under supervision. An in-school suspension should not exceed five consecutive school days.

In-school suspension must follow the adopted district and school expectations outlined in the PBIS Student Behavior Expectations Matrix.

Parents/guardians shall be notified prior to the administration of an in-school suspension.

Intervention Plans. Prior to returning to regular classes, an in-school suspended student shall meet with the building administration or a member of guidance, to assist the student in smoothly returning to the classroom setting.

In-school suspensions are not appealable.

5. "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 out of 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).¹

During a short-term suspension, unless otherwise stipulated in writing, a student is not permitted to attend school classes or activities, school sponsored events, or be on school property.

The Superintendent or his/her written designee² is authorized to suspend a student for ten (10) school days or less.

¹ The text of any state law ("RSA") referenced in this policy may be located with the following link:
<http://www.gencourt.state.nh.us/rsa/html/nhtoc.htm>

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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. 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 Student Agenda Book.

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 taken). See New Hampshire Department of Education Rule Ed 317.04(f)(1).³

- 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.

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-D⁴;
- 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.

During such suspension, unless otherwise stipulated in writing, a suspended student is not permitted to attend school classes or activities, school sponsored events, or be on school property for the duration of the suspension.

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

² RSA 193:13, I(a) designates the Superintendent as the person with authority to suspend, but specifically allows the Superintendent to delegate that authority “**in writing**”. This should be done before the start of each year.

³ As of March 2021, Ed 317 has not been revised to reflect 2020 amendments to RSA 193:13. The text of any regulation of the NH Department of Education may be located with the following link:

<https://www.education.nh.gov/who-we-are/deputy-commissioner/office-of-governance/administrative-rules>

⁴ <http://www.gencourt.state.nh.us/rsa/html/XV/193-D/193-D-1.htm> That list is subject to change. The statute should be reviewed prior to any long term suspension for an act of theft, destruction of violence.

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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.

- c. 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 hearing and written decision required under N.H. Dept. of Education Rule Ed. 317.04 (f)(2)c, and sub-paragraph B.5.b, above. The Board shall hold a hearing on the appeal but will rely upon the record of the decision being appealed from.

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, shall meet with the building administration and the Director of School District Operations 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 building administration 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. Prior to implementation, the plan shall be reviewed by the Director of School District Operations.

- g. Attendance Safe Harbor. A student may not be penalized academically solely by virtue of missing class due to a suspension.
6. "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.

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

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

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- i. A repetition of an act that warranted long term suspension under section B.5.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, XIII⁵;
- iv. Criminal threatening pursuant to RSA 631:4, II(a)⁶; 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:1⁷, 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 or chartered public school 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)⁸ are followed.
 - c. Duration of Expulsion. An expulsion will run for the duration stated in the written decision or until the School Board or Superintendent restores the student's permission to attend school as provided in this policy. An expulsion relating to a firearm in a safe school zone per B.6.a.v, shall be for a period of not less than 12 months.
 - d. 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.

⁵ <http://www.gencourt.state.nh.us/rsa/html/LXII/651/651-5.htm>

⁶ <http://www.gencourt.state.nh.us/rsa/html/LXII/631/631-4.htm>

⁷ <http://www.gencourt.state.nh.us/rsa/html/XV/193-D/193-D-1.htm>

⁸ <https://www.education.nh.gov/who-we-are/deputy-commissioner/office-of-governance/administrative-rules>

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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 reinstating authority (Superintendent or Board) deem appropriate.

1. **Modification by Superintendent.** Subject to all other applicable laws, regulations and Board policies, and paragraph C.3, 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.

Modification of Expulsion for Firearms. The Superintendent has the discretion to modify the requirements when a student 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.

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. Appeals to 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.

- E. Sub-committee of Board.** For purposes of sections B.5 and B.6 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.

- F. 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.

- G. Disciplinary Removal of Students with Disabilities.**

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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.

H. Notice and Dissemination.

This policy shall be made available to families, students and staff as provided in Board policy JIC.

I. 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.

Legal References:

18 U.S.C. § 921, Et seq., Firearms

20 U.S.C. § 7151, Gun-Free Schools Act

RSA 189:15, Regulations

RSA 193:13, Suspension & Expulsion of Pupils

RSA Chapter 193-D, Safe Schools Zones

RSA 631:4, Criminal Threatening

RSA 651:5, XIII "Act of Violence"

NH Code of Administrative Rules, Section Ed 306.04(a)(3), Discipline

NH Code of Administrative Rules, Section Ed 306.04(f), Student Discipline Policy

NH Code of Administrative Rules, Section Ed. 306.04(g), Suspension & Expulsion

NH Code of Administrative Rules, Section Ed 317.04, Suspension and Expulsion of Pupils Assuring Due Process Disciplinary Procedures

In re Keelin B., 162 N.H. 38, 27 A.3d 689 (2011)

District Policy History:

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SOMERSWORTH

Category: Priority - Required by Law

JICD

Related Policies: JI, JIC, JICDD & JICK

See also Appendix JICD-R

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