

## **Suspension, Expulsion, Emergency Removal, Permanent Removal, Due Process Rights**

The School recognizes that exclusion from the educational program is a serious sanction and that suspension and expulsion must follow due process mandates. Additionally, the School will comply with all state and federal law pertaining to students with disabilities.

A student may be disciplined for any violation of the student code of conduct, even if the violation occurs on property not owned or controlled by the School if the violation took place during activities connected with the School or if the behavior is directed at a school official.

Any student suspended or expelled under this policy will not be permitted to participate in any extracurricular activities.

### **Kindergarten through Third Grade Students**

No student in grades kindergarten or third grade may be suspended except in accordance with Exhibit A.

### **Suspension**

The principal or designee may suspend a student from the School for not more than ten school days. If at the time a suspension is imposed there are fewer than ten school days remaining in the school year in which the incident that gives rise to the suspension takes place, the principal may require the student to participate in a community service program or another alternative program for a number of hours equal to the remaining suspension period. The student shall be required to begin the program during the first full week day of the summer break. A principal may not apply the remaining suspension period to the following year.

Except in the case of a student given an in-school suspension, no student shall be suspended unless prior to the suspension the principal does both of the following:

1. Gives the student written notice of the intention to suspend the student and the reasons for the intended suspension;
2. Provides the student an opportunity to appear at an informal hearing before the principal or designee and challenge the reason for the intended suspension or otherwise to explain the student's actions.

The School shall provide students an opportunity to complete any classroom assignments missed because of an in-school or out-of-school suspension. Students shall be entitled to receive at least partial credit for a completed assignment; however, reasonable grade reduction may be made on account of a student's suspension. The School shall not assess a failing grade for a completed assignment solely on account of the student's suspension.

**Expulsion**

The superintendent may expel a student from the School for a period not to exceed the greater of eighty school days or the number of school days remaining in the semester or term in which the incident that gives rise to the expulsion takes place. If at the time an expulsion is imposed, there are fewer than eighty school days remaining in the school year in which the incident that gives rise to the expulsion takes place, the superintendent may apply any remaining part or all of the period of the expulsion to the following school year. No student shall be expelled under this policy unless, prior to the student's expulsion, the superintendent does both of the following:

1. Gives the student and the student's parent, guardian, or custodian written notice of the intention to expel the student;
2. Provides the student and the student's parent, guardian, custodian, or representative an opportunity to appear in person before the superintendent or superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the student's actions. The notice required under this section shall include the reasons for the intended expulsion, notification of the opportunity of the student and the student's parent, guardian, custodian, or representative to appear before the superintendent or superintendent's designee to challenge the reasons for the intended expulsion or otherwise to explain the student's action, and notification of the time and place to appear. The time to appear shall not be earlier than three nor later than five school days after the notice is given, unless the superintendent grants an extension of time at the request of the student or the student's parent, guardian, custodian, or representative. If an extension is granted after giving the original notice, the superintendent shall notify the student and the student's parent, guardian, custodian, or representative of the new time and place to appear.

Unless a student is permanently excluded, the superintendent shall expel a pupil for a period of one year for bringing a firearm to the School, to an extracurricular event, or onto any other property controlled by the Board of Directors of the School. "Firearm" has the same meaning provided in the "Gun-Free Schools Act," a "firearm means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projective 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, which includes a bomb grenade, a rocket having a propellant charge of more than four ounces, a missile having an explosive or incendiary charge of more than one-quarter ounce, a mine, or similar device. This definition would also include any weapon that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, and that has a barrel with a bore of more than one half in diameter. The term does not include an antique firearm. The superintendent may reduce the expulsion time on a case by case basis based upon the student's overall record at the School.

**Permanent Exclusion**

A student may be permanently excluded from attending any school in the state if the student is convicted of, or adjudicated a delinquent child for, committing an act that would be a criminal offense if committed by an adult, when the student was sixteen years of age or older if the act is one of the following:

- Illegal conveyance or possession of deadly weapon or dangerous ordnance or of object indistinguishable from firearm in school safety zone in violation of R.C. 2923.11.

- Carrying a concealed weapon, trafficking in drugs or possession of controlled substances, if the violation was committed on property owned or controlled by the school or at a school activity in violation of R.C. 2923.12, R.C. 2925.03, and/or R.C. 2925.11.
- Aggravated murder, murder, voluntary manslaughter, involuntary manslaughter, felonious assault, aggravated assault, rape, gross sexual imposition, or felonious sexual penetration in violation of R.C. 2903.01, R.C. 2923.02, R.C. 2903.03, R.C. 2903.04, R.C. 2903.11, R.C. 2903.12, R.C. 2907.02, R.C. 2907.05, and/or the former section R.C. 2907.12 if the violation was committed on property owned or controlled by the school or a school activity if the victim at the time of the commission of the act was an employed at the school.
- Complicity in any of the above violations regardless of whether the act of complicity was committed on property owned or controlled by, or at an activity held under the auspices of, the school.

If the superintendent of the school obtains or receives proof that a student has been convicted of committing or adjudicated a delinquent child for the commission when the student was sixteen years of age or older of one or more of the above, the superintendent may issue to the school's governing authority a request that the student be permanently excluded from public school attendance in Ohio, if both of the following apply:

1. After obtaining or receiving proof of the conviction or adjudication, the superintendent or the superintendent's designee determines that the student's continued attendance in school may endanger the health and safety of other students or school employees and gives the student and the student's parent, guardian, or custodian written notice that the superintendent intends to recommend that the governing authority adopt a resolution requesting the superintendent of public instruction to permanently exclude the student from public school attendance.
2. The superintendent or the superintendent's designee forwards to the governing authority the superintendent's written recommendation that includes the determinations the superintendent or designee made pursuant to this policy and a copy of the proof the superintendent received showing that the student has been convicted of or adjudicated a delinquent child for a violation listed in this section that was committed when the student was sixteen years of age or older.

The School shall follow all requirements for permanent exclusion as described by ORC 3313.66, including providing notice of the possibility of permanent exclusion with each suspension and expulsion notice.

### **Emergency Removal**

If a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process taking place either within a classroom or elsewhere on the school premises, the superintendent or principal or assistant principal may remove a student from curricular activities or from the school premises or a teacher may remove a student from curricular activities under the teacher's supervision without the notice and hearing requirements of this policy. A teacher may remove a student from curricular activities under the teacher's supervision, without the notice and hearing requirements. As soon as practicable after making such a removal, the teacher shall submit in writing to the principal the reasons for such removal.

If a student is removed under this Emergency Removal section from a curricular activity or from the school premises, written notice of the hearing and of the reason for the removal shall be given to the pupil as soon as practicable prior to the hearing, which shall be held on the next school day after the initial removal is ordered. The hearing shall be held in accordance with suspension provisions of this policy unless it is probable that the student may be subject to expulsion, in which case a hearing in accordance with the expulsion provisions of this policy shall be held, except that the hearing shall be held on the next school day after the date of the initial removal. The individual who ordered, caused, or requested the removal to be made shall be present at the hearing.

A student in grades kindergarten through three may be removed pursuant to Emergency Removal procedures only for the remainder of the school day and shall be permitted to return to curricular and extra-curricular activities the following school day. A student in grades kindergarten through three subject to emergency removal shall not be suspended or expelled unless the student has committed an act described in ORC 3313.668 (B)(1)(a) or (b). A student that returns to school based on this paragraph shall not be subject to the emergency removal hearing procedures.

### **Right to Appeal to Board**

Within one school day after the time of a student's expulsion or suspension, the superintendent or principal shall notify in writing the parent, guardian, or custodian of the student of the expulsion or suspension. In the case of an expulsion, the superintendent or principal, within one school day after the time of a pupil's expulsion, also shall notify in writing the school's Board of Directors.

Each notice shall include the following:

1. reasons for the expulsion or suspension and notification;
2. the right of the student or the student's parent, guardian, or custodian to appeal the expulsion or suspension to the Board of Directors of the School or to its designee;
3. the right to be represented in all appeal proceedings;
4. the right to be granted a hearing before the Board of Directors of the School or its designee in order to be heard against the suspension or expulsion;
5. the right to request that the hearing be held in executive session;
6. Permanent exclusion notice, if applicable;
7. the manner and date by which the student or the student's parent, guardian, or custodian shall notify the board of the intent to appeal the expulsion or suspension to the board or its designee.

If the superintendent expels a student under this section for more than twenty school days or, for any period of time, if the expulsion will extend into the following semester or school year, the notice shall provide the student and the student's parent, guardian, or custodian with information about services or programs offered by public and private agencies that work toward improving those aspects of the student's attitudes and behavior that contributed to the incident that gave rise to the student's expulsion. The information shall include the names, addresses, and phone numbers of the appropriate public and private agencies.

If the student or the student's parent, guardian, or custodian intends to appeal the expulsion or suspension to the Board of Directors of the School or its designee, the student or the student's parent, guardian, or custodian shall notify the Board of Directors of the School in the manner and by the date specified in the notice. The student or the student's parent, guardian, or custodian may be represented in all appeal proceedings and shall be granted a hearing before the Board of Directors of the School or its designee in order to be heard against the suspension or expulsion. At the request of the student or of the student's parent, guardian, custodian, or attorney, the Board of Directors of the School or its designee may hold the hearing in executive session but shall act upon the suspension or expulsion only at a public meeting. The Board of Directors of the School, by a majority vote of its full membership or by the action of its designee, may affirm the order of suspension or expulsion, reinstate the student, or otherwise reverse, vacate, or modify the order of suspension or expulsion.

The Board of Directors of the School or its designee shall make a verbatim record of hearings held under this division. The decisions of the Board of Directors of the School or its designee may be appealed under Chapter 2506 of the Ohio Revised Code.

This policy shall not be construed to require notice and hearing in the case of normal disciplinary procedures in which a student is removed from a curricular activity for a period of less than one school day and is not subject to suspension or expulsion.

For purposes of this policy, the Board of Directors of the School appoints the Operator as its designee.

### **Discipline for Students with Disabilities**

Consistent with this policy, to the extent the principal may order removal of a student without disabilities, the principal may remove a student with a disability, but not for more than ten (10) school days.

After a child with a disability has been removed from the child's current placement for ten school days in the same school year, during any subsequent days of removal, the school district must provide services.

If a child is removed for a period of time exceeding ten school days and the behavior was not determined to be a manifestation of the disability, the student must continue to receive educational services and receive a functional behavioral assessment and behavioral intervention services.

### **Change in Placement**

The School will notify the parent of the removal decision that constitutes a change in placement for a student with a disability and provide the parent with a copy of the notice of procedural safeguards on the same day as the date of the removal decision.

A change in placement will occur when

- a removal is for more than ten (10) consecutive school days; or

- a series of removals constitute a pattern because;
  - the removals cumulate to more than ten (10) school days in a school year,
  - the behavior of the student is substantially similar to prior incidents, and
  - other factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

### **Manifestation Determination**

Within ten school days of any decision to change the placement of a child with a disability due to a violation of the code of student conduct, the School, parent, and relevant members of the IEP team must review all relevant information in the student's file to determine:

1. If the conduct in question was caused by, or had a direct and substantial relationship to the child's disability or
2. If the conduct was a direct result of the School's failure to implement the IEP.

If either of these two conditions are found to exist, the conduct must be determined to be a manifestation of the disability.

If the IEP team and other qualified personnel determine that the student's behavior was not related to the disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities.

If the IEP team determines that the student's behavior was a manifestation of the disability, the school must either:

1. Conduct a functional behavioral assessment or,
2. If the behavioral plan has already been developed, review the behavioral intervention plan and the implementation plan and modify them if necessary.
  - a. The child must return to the placement from which the child was removed, unless the parent and the School agree to a change of placement as part of the modification of the behavioral intervention plan.

School personnel may remove a student to an interim alternative educational setting for not more than forty-five school days without regard to whether the behavior is a manifestation of the disability if the student:

1. Carries a weapon to or possesses a weapon at School, on school premises, or to a school function;
2. Knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at School, on school premises, or at a school function; or
3. Has inflicted serious bodily injury upon another while at School, on school premises, or at a school function.

Students removed under this section must continue to receive services and receive a functional behavioral assessment and behavioral intervention services.

**Appeals**

If a parent disagrees with any decision regarding placement or the manifestation determination decision made by the IEP team, the parent may request a hearing. Whenever a hearing is requested, the School will comply with the procedures for an expedited due process hearing.

**Exhibit A****Students in Grades Kindergarten through Three****Suspensions/Expulsions**

Students in grades kindergarten through three may only be suspended in the following situations:

- Bringing a firearm to school
- Bringing a knife capable of serious bodily injury to school
- Committing an act that is a criminal offense when committed by an adult and results in serious physical harm to persons.
- Making a bomb threat
- Necessary to protect the immediate health and safety of the student, classmates, staff and teachers, or other school employees

*Implementation**2018-2019 School Year*

- *The school shall issue suspensions and expulsions in accordance to ORC 3313.66, as set forth herein in this policy on Pages 1-7.*

*2019-2020 School Year*

- The school shall be considered in compliance if the number of students in grades kindergarten through third grade suspended or expelled for a reason other than the above is 25% less than the number reported in 2018-2019.

*2020-2021 School Year*

- The school shall be considered in compliance with this policy if the number of students in grades kindergarten through third graded suspended or expelled for a reason other than the above is 50% less than the number reported in 2018-2019.

*2021-2022 School Year and each year thereafter*

- The school shall be considered in compliance with this policy if the number of students in grades kindergarten through third graded suspended or expelled for a reason other than the above is zero.

**Additional Provisions**

Prior to suspending a student in kindergarten through third grade, the principal shall consult with a mental health professional under contract with the school. If events leading up to suspension/expulsion indicate a need for mental health services, the school shall, in any manner that does not result in a financial burden to the school, assist with locating or obtaining such services, including referral to an independent mental health professional.

Nothing in this policy shall be construed to limit the responsibilities of the school with respect to the provision of special education and related services.

All students must be provided notice and hearing opportunities as described in this policy.