STUDENT SUSPENSION AND DISCIPLINE

Introduction

Suspension and expulsion is a grave act of lasting significance in the life of a young person. It is an act to be taken when a student’s behavior is such that their own, or others, learning experiences are severely disrupted.

This student suspension and discipline regulation is adopted pursuant to RSA 189:15, RSA 193:13, RSA 193-B, RSA 193-D, and Ed 317. Students will be notified of these regulations and the law in accordance with the provisions of Policy Regulation JICD-R2.

Should any portion of this policy conflict with state law or regulations issued pursuant thereto, it is the school district’s intention that its policy be read in such a manner that it conforms to such law or regulation and state law and regulations will control

I. Definitions

a. “Expulsion” means the permanent denial of a pupil’s attendance at school.

b. “Firearm or other dangerous weapon” means any firearm or weapon as defined in section 921 or Title 18 of the US Code, and any weapon prohibited by RSA 159, including but not limited to dangerous weapons listed in RSA 159:16.

c. “Gross misconduct” means an act which:

   (1) Results in violence to another’s person or property; or
   (2) Poses a direct threat to the safety of others in a safe school zone; or
   (3) Is identified in RSA 193-B:2 and RSA 193-D:1, I.

d. “Neglect”, in the context of RSA 193:13, I and II, means the failure of a pupil to pay attention to an announced, posted, or printed school rule.

e. “Pupil” means an enrolled student.

f. “Refusal”, in the context of RSA 193:13, I and II means the willful defiance of a pupil to comply with an announced, posted, or printed school rule.

g. “Safe school zone” means any area which includes school property or school buses, as defined in RSA 193-D:1, II.

h. “Drug free school zone” means any area inclusive of any property used for school purposes by any school, whether or not owned by such school, within 1000 feet of any such property, and within or immediately adjacent to school buses.

i. “School day” means:

   (1) for a pupil who takes the school bus, the time period beginning when a pupil boards the bus in the morning to the time when a pupil disembarks from the bus in the afternoon; and
(2) for a pupil who walks to school or arrives by private vehicle, the time period beginning when the pupil arrives on the school grounds to the time when the pupil leaves the school grounds.

j. “School employee” means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for the school district, or school administrative unit.

k. “School property” means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

l. “School purposes” means school-sponsored programs, including but not limited to educational or extra curricular activities.

m. “Superintendent” means the school superintendent or chief administering officer, or a representative designated in writing as authorized under RSA 193:13, I.

n. “Suspension” means the temporary denial of a student’s attendance at school for a specific period of time.

o. “Possession” shall include, but not be limited to:

1. having control over an object during any part of a school day or while on school property;

2. transporting the object to school;

3. storing the object anywhere on the school property, whether in the student’s locker or any other student’s locker, or any other place on the school property, or

4. doing any other act which causes or contributes to causing the object to be on school property, or which causes or contributes to causing an object to be used on school property including, but not limited to, knowingly being in the immediate vicinity of the object.

II. Prohibited Conduct

Conduct specifically prohibited shall include, but not be limited to: habitual truancy; arson; theft of property; improper use of motor vehicle; leaving school grounds without authorization; gambling; verbal or physical abuse toward any student or faculty or staff member; disobedience of reasonable demands of staff or faculty members; distribution, consumption, possession of controlled drugs and/or alcoholic beverages on school property or at school functions; disrupting classroom atmosphere; impeding classroom decorum; causing disturbances among other students in attendance; distracting other students so as to interfere with the educational process; harassment as defined in accordance with RSA 193-F; disrupting the disciplinary process; any act of theft, destruction or violence on school property or on a school bus as defined by RSA 193-D; violation of other policies and rules such as drugs and alcohol policies; possession of a weapon on school grounds, in school buildings, or at school functions which includes knives or any other instruments of a dangerous nature; and possession in school of incinerating devices including lighters, matches, cigarettes, firecrackers or smoke bombs, snaps, and caps.

III. Levels of Discipline
a. **Short-term Suspension** - A suspension of less than ten (10) days shall be considered a short-term suspension and shall be administered by the superintendent or the superintendent’s representative designated in writing.

b. **Long-term Suspension** - A suspension for more than ten (10) days shall be administered by the school board or its representative designated in writing, provided that the designee is not the person who suspended the pupil for up to ten school days under subparagraph (1) above and that the designee provides the student with the due process hearing in accordance with the school district’s Policy Regulation JICD-R2 for long-term suspensions.

c. An expulsion by the school board for a period determined in writing by the board under RSA 193:13 II; and

d. An expulsion by the school board for a period of not less than twelve (12) months under RSA 193:13 III.

**IV Expulsion** -

A. Any pupil who engages in or commits any of the following acts may be expelled from school:

1. Homicide under RSA 630;
2. (i) Any first or second degree assault under RSA 631;
   (ii) Any simple assault under RSA 631:2-a
3. Any felonious or aggravated felonious sexual assault under RSA 632-A;
4. Criminal mischief under RSA 634:2;
5. Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159;
6. Arson under RSA 634:1;
7. Burglary under RSA 635;
8. Robbery under RSA 636;
9. Theft under RSA 637;
10. Illegal sale or possession of a controlled drug under RSA 318-B;
11. Gross misconduct or neglect or refusal to conform to the reasonable rules of the school under RSA 193:13, II;
12. Possession of a pellet or BB gun or rifle under RSA 193:13, II;
13. Harassment as defined in accordance with RSA 193-F.

B. Any pupil who engages in or commits any of the following acts shall be expelled from school:

Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code 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 school board for a period of not less than twelve months. Any expulsion shall be subject to review by the board if requested by a parent or guardian prior to the start of each school year and further, any parent or guardian shall have the right to appeal any such expulsion by the board to the state board of education. (RSA 193:13, III).

It is the policy of this school board to allow the superintendent to modify the expulsion requirements of RSA 193:13 II, III on a case by case basis. The superintendent shall make the initial decision on whether or not to modify the expulsion and shall notify the pupil that the pupil has a right to appeal that decision to the local school board, in which case the superintendent’s decision will be treated as a recommendation, not a decision.
V. **Authority to Suspend**

The Superintendent of Schools is authorized to suspend students from attending school and school sponsored activities for a specific period of time for any prohibited conduct or for gross misconduct or for neglect or refusal to conform to the announced, posted, or printed school rules.

The Superintendent of Schools may designate in writing a building principal, assistant principal, or dean of students with the authority to suspend a student for a period not to exceed ten (10) school days.

The school board hereby designates the Superintendent of Schools and from time-to-time may authorize other representatives in writing with the authority to continue a suspension of a pupil for a period in excess of ten (10) school days provided that the individual suspending a pupil for a period of time in excess of ten (10) days is not the person who suspended the pupil for the first ten (10) school days and that the designee provides a due process hearing for the student in accordance with the school board Policy Regulation JICD-R2.

VI. **Student with an Educational Disability**

This section of this policy applies to the suspension of all students with disabilities under the Individuals with Disabilities Education Act and Section 504 and may apply to those students not yet eligible as special education students but for whom the District has knowledge that the student has a disability before the behavior occurs. Having knowledge may include situations where a parent has requested an evaluation or expressed a concern in writing, or the pupil’s behavior demonstrates the need for services where the pupil’s teacher expresses concern regarding behavior.

a. Special education and discipline records of the student must be transmitted to the person or persons making the final determination regarding the disciplinary action.

b. **Manifestation Determination**

Prior to the suspension of more than ten days which constitutes a “significant change in placement” for an educational disabled student, the district will convene the individual education program team. The team will:

(1) Review evaluations, diagnostic results, observations, IEP, and placement;

(2) Determine if the student’s disability impaired the ability to understand the impact and consequences of the behavior;

(3) Determine if the disability impaired the student’s ability to control the behavior; and

(4) Determine if there is a relationship between the student’s behavior and the failure to provide or implement an IEP or placement. If there is a failure to provide or implement an IEP or placement, there is a relationship between the behavior and the disability.

Prior to the manifestation meeting, the district will provide the parent or guardian of the eligible student with parental rights under the IDEA, including the right to appeal the manifestation determination to an impartial due process hearing officer.

c. **Definitions**
“A significant change in placement” is defined as:

(1) A suspension for ten (10) or more consecutive school days; or

(2) A series of suspensions, each less than ten (10) consecutive school days, which, when combined exceed ten (10) school days within one school year create a significant pattern of exclusion based on the length of each suspension, the proximity of the suspensions to one another, and the total number of school days the student is excluded from school.

d. Behavior Modification

Within ten (10) days of the suspension of a student with disabilities, the IEP team shall meet to develop a functional behavioral assessment plan or review and modify, as needed, a behavior intervention plan already in place.

e. Out-of-School Suspension Resulting in a Significant Change in Placement.

If the out-of-school suspension being contemplated will result in a “significant change in placement” and if the IEP team determines that the behavior leading to the suspension was a result of the student’s disability, the district shall not unilaterally suspend the student for more than ten (10) days.

If the IEP team determines that the behavior leading to the suspension was not a result of the disability, the student may be suspended for more than ten (10) days. However, the student must continue to receive services.

The school district adheres to the belief that a student, who is serving a suspension, either in or out of the school, should have the opportunity to make up missed class work.

f. Under the following circumstances, students can be removed to 45 day alternative interim placements as determined by the IEP team:

(1) The student has carried a dangerous weapon to school or a school function.

(2) The student has willingly used, possessed, or solicited illegal drugs or controlled substances.

(3) A hearing officer has determined in an expedited hearing that the student is dangerous.

g. A student not yet eligible as a special education student may be entitled to the above protections if the district had knowledge that the student had a disability before the behavior occurred.
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The Superintendent of Schools may authorize a suspension of up to twenty (20) school days, and delegate in writing authorization for a building administrator to suspend a student for up to ten (10) consecutive school days. Except for an emergency, no student shall be suspended unless and until the student has been informed as to the reasons for the proposed suspension.

I. Due Process Procedures

The following due process procedures shall be followed:

a. In a short term suspension (10 days or less) of a pupil, due process shall include:

(1) The superintendent or representative as designated in writing shall inform the pupil of the purpose of the meeting and oral or written notice of the charges and explanation of the evidence against the pupil;

(2) The pupil must be given an opportunity to present the pupil’s side of the story; and

(3) A written statement to the pupil and at least one of the pupil’s parents or guardian explaining any disciplinary action taken against the student.

(4) In an emergency, if a student’s presence poses a continuing danger to the safety and welfare of a person, persons or property, the superintendent of the superintendent’s representative, as designated in writing, may take such action as the circumstances warrant; and after taking the action, promptly notify the student of the charges and provide an opportunity for the student to respond to the charges.

b. In a long term suspension (more than 10 days) of a pupil, due process shall include:

(1) Suspension of more than 10 days may be made by the school board or its representative as designated in writing by the school board;

(2) Written communication to the pupil and at least one of the pupil’s parents or guardian, delivered in person or by mail to the pupil’s last known address, of charges and evidence against the pupil;

(3) The superintendent’s written or oral recommendation for student action to correct the discipline problem;

(4) A full and fair hearing, including the right to be represented by counsel, the right to object and cross examine and introduce evidence, the right to have the proceedings recorded or transcribed, the statutory right of appeal, and compliance with c.(7) below;

(5) A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;
(6) If the hearing was conducted by the school board’s designee, the decision may be appealed to the school board if a written appeal is received by the superintendent within 10 days after issuance of the decision being appealed; and

(7) If the hearing was held by the school board, the decision may be appealed to the state board.

c. In an expulsion by the school board, due process may, in addition to the foregoing, include the following:

(1) A formal hearing shall be held before any expulsion;

(2) Such hearing may be held either before or after the short term suspension has expired for expulsions under RSA 193:13 II, but shall be held before the short term suspension has expired for expulsions under RSA 193:13 III; pending a hearing, a student’s suspension shall be enforced unless the school board stays the suspension prior to the hearing;

(3) If the hearing is held after the expiration of a short term suspension, the pupil shall be entitled to return to school after the short term suspension has expired and pending the expulsion hearing;

(4) The school board shall provide written notice to the pupil and at least one of the pupil’s parents or guardian, delivered in person or by mail to the pupil’s last known address, of the date, time, and place for a hearing before the school board;

(5) The written notice required by (4) above shall include:

(i) a written statement of the charges and the nature of the evidence against the pupil; and

(ii) the superintendent’s written recommendation for the school board action and a description of the process used by the superintendent to reach his/her recommendation;

(6) This notice shall be delivered to the pupil and at least one of the pupil’s parents or guardian at least five (5) days prior to the hearing;

(7) The following hearing procedures shall apply:

(i) The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;

(ii) If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;

(iii) Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;
(iv) The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and

(v) During the hearing, the pupil parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses;

(8) The decision of the school board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is to be imposed and that such acts are, in fact, a proper reason for expulsion;

(9) The decision shall state whether the student is expelled and the length of the expulsion. If the decision is to expel the pupil, the decision shall include the legal and factual basis for the decision;

(10) A statement of the time period for which the student is expelled and any action the student may take to be restored by the board; and

(11) A decision shall include a statement that the pupil has the right to appeal the decision to the state board of education.

d. Any appeal to the state board allowed under RSA 193:13 II or III shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 200.

e. In all cases, appropriate adjustments shall be made to account for the age and grade level of the pupil being disciplined.

II. Notification of Students

In accordance with RSA 193:13 the following notification procedures will be followed:

a. The student handbooks for all school pupils shall contain a copy of RSA 193:13, RSA 193-D, and this policy/regulation. Copies of the statutes and this policy/regulation shall be available in the principal’s office. Notice of the policy and the location of copies of RSA 193:13, RSA 193-D and this policy regulation shall be displayed in a prominent place on each school’s notice board.

b. Copies of the statutes and school policy will be given to all teachers and other school employees.

c. Copies of the statutes and school policy will be given to any student being disciplined pursuant to its terms.

III. Waivers, Appeals, and Review

In accordance with RSA 193:13 the following waiver, appeal and review procedures shall be followed:
a. In the case of short or long term suspensions, the appeal rights shall be as contained in RSA 193:13, I.

b. In the case of expulsion pursuant to RSA 193:13, II, III and this policy/regulation, written application may be made to the board through the superintendent’s office no later than one month prior to start of each school year. The application shall contain a statement in the pupil’s own words explaining why he/she should be considered for readmission. The application shall be accompanied by at least one recommendation form a member of the community, such as a counselor, minister, or employer who has observed the pupil’s behavior during the period of expulsion. The application shall also be accompanied by the superintendent’s and building administrator’s recommendation to the board, which may include conditions for phased readmission.

c. The superintendent may, upon written application of an expelled pupil and on a case-by-case basis, recommend to the board modification of an expulsion. Prior to consenting to such a modification, the pupil shall be required to submit to the superintendent sufficient evidence in the form of letters, work history or other documents or testimony demonstrating that it is in the school’s best interests and the pupil’s best interests to allow a modification. In making such a decision due regard will be given to other pupils and staff whose safety and well being shall be of paramount importance.

IV. Reporting Procedures

a. Any school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence witnessed by such employee in a safe school zone shall report such act in writing immediately to an immediate supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority immediately, but telephone or otherwise, and shall be followed within 48 hours by a report in writing.

The provisions of this paragraph a. shall not apply to any simple assault involving pupils in kindergarten through grade 12. In cases involving simple assault resulting in the discipline of students, the principal shall forward to the parents of the pupils so disciplined, notice of the incident and the discipline assigned. A copy of the notice shall be forwarded to the superintendent of schools.

b. In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to any of the following acts in a safe school zone shall be on standardized form #Ed317, available to school officials from the state board upon request:

   (1) Homicide under RSA 630;
   (2) (i) Any first or second degree assault under RSA 631;
         (ii) Any simple assault under RSA 631:2-a
   (3) Any felonious or aggravated felonious sexual assault under RSA 632-A;
   (4) Criminal mischief under RSA 634:2;
   (5) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159;
   (6) Arson under RSA 634:1;
   (7) Burglary under RSA 635;
(8) Robbery under RSA 636;
(9) Theft under RSA 637;
(10) Illegal sale or possession of a controlled drug under RSA 318-B;
(11) Gross misconduct or neglect or refusal to conform to the reasonable rules of the school under RSA 193:13, II;
(12) Possession of a pellet or BB gun or rifle under RSA 193:13, II;
(13) Harassment as defined in accordance with RSA 193-F.

c. Form #Ed317 shall contain all the statutory information required by RSA 193-D:4, including a specific citation to the law listed in RSA 193-D:1, I, which has been violated the name and home address of the person suspected of committing the act and the name and home address, if known, of any witness to the act, and shall include as an attachment a copy of the memorandum required by RSA 193-D:4, I(c).

d. In the case of unlawful possession or sale of a firearm or other dangerous weapon, the report shall state if the firearm has been licensed under RSA 159, and, if so, who legally owns it.

e. Each school principal shall notify the superintendent in writing whenever the report required is filed by the police who responded to the incident in lieu of the school principal filing the report in accordance with RSA 193-D:5.

In the absence of the Superintendent of Schools, the Assistant Superintendent of Schools shall assume the responsibilities of the superintendent in order to expedite the matter.