

**Regulation**

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SUSPENSION AND EXPULSION

The Passaic Board of Education recognizes the need for every student to have a safe and orderly environment in which to learn. Additionally, the board deems the suspension or expulsion of a student to be a very serious penalty that should be imposed only when the student has materially and substantially interfered with the maintenance of good order in the school, or when it is necessary to protect the student's emotional safety and well-being.

The Passaic Board of Education also recognizes that students have the right to request redress of grievance. Accordingly, a procedure for dealing with individual and group grievances will be provided.

Causes for Suspension/Expulsion

Any student who is guilty of continued and willful disobedience, or of open defiance of the authority of any teacher or person having authority over him/ her, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school (N.J.S.A. 18A:37-2). The following items are examples of continued and willful disobedience that may result in suspension or expulsion:

- A. Continued and willful disobedience;
- B. Open defiance of the authority of any teacher or person having authority over a student;
- C. Actions that constitute a continuing danger to the physical well-being of other students;
- D. Physical assault upon another student, a teacher, or any school employee with or without a firearm or other weapon;
- E. Taking, or attempting to take, personal property or money from another student whether by force or fear;
- F. Willfully causing, or attempting to cause, substantial damage to school property;
- G. Taking part in any unauthorized occupancy of a district facility and refusing to leave promptly when directed to do so by a person in authority;
- H. Inciting others to take part in an unauthorized occupancy;
- I. Inciting other students to truancy;
- J. Truancy and class cutting; leaving school property without permission;

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- K. Poor attendance and lateness;
- L. Use or possession of unsafe or illegal articles;
- M. Use of any tobacco product on school property;
- N. Use, possession or sale of a controlled dangerous substance, drug paraphernalia, anabolic steroids or alcohol;
- O. Use of profanity or abusive language;
- P. Turning in a false alarm;
- Q. Tampering with or damaging property of other students or staff members;
- R. Selling or buying lottery tickets or any other gambling paraphernalia on school property;
- S. Join a secret society prohibited by law, including gangs as identified in the Gangs and Gang-Related Activities board policy;
- T. Harassment, intimidation and bullying.

Procedure for Suspension

Students may be suspended by the principal or by the assistant principal for any of the reasons listed under "Causes of Suspension/Expulsion."

In cases of suspension, the student will have an informal hearing with the principal or assistant principal. This informal hearing shall include:

- A. Informing the student of the charges against him/her;
- B. Giving the student an opportunity to reply to the charges against him/her.

In most cases, suspension time begins at the end of the school day on the day that the suspension is issued. However, the administration has the right to suspend a student from school immediately when it is determined that waiting until the end of the school day will jeopardize the safety and well being of other students.

The Principal or Assistant Principal will notify the parents/guardians of the suspension by phone and in writing (See File Code No. 5114 Exhibit A). In cases that result in suspension from school, a parent/guardian conference with the appropriate building administrator is necessary before the student may be permitted to return to regular classes.

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Principals must report all suspensions to the superintendent and/or his/her designee. The superintendent must report all suspensions to the board of education at the next regular meeting.

Effects of Suspension

## A. Short-term suspension (10 days or less)

The effects of a short-term suspension are listed below:

1. Days absent from school which are the result of a suspension will be recorded as excused absences;
2. The student will be able to make-up any class work, test, quizzes, projects, homework, etc., missed during the days of suspension without any penalty to his/her grade. It is the responsibility of the student to approach the teacher to receive the missed assignments. The student will be allowed a number of days to complete these assignments that is equal to the number of days missed due to the suspension;
3. Students will be ineligible to participate in every activity, meeting and school event during the suspension. A student who is ineligible to participate in extracurricular activities because of a suspension may remain ineligible for the balance of the season/activity unless:
  - a. The student and parent/guardian file a written request for a hearing before an administrative committee to show cause why his/her ineligibility should not remain permanent. Such a committee will be composed of at least two administrators, the advisor or coach and the student's guidance counselor. The parent/guardian must be present at the hearing.
  - b. Following the hearing the administrative committee may grant the request of the student and reinstate participation privileges. The administrative committee may also grant the appeal, conditionally, provided that certain conditions relative to student behavior, attendance and academic performances are met. The administrative committee may also deny the request.
  - c. Any student who is suspended twice during a season/activity will remain ineligible for the remainder of the season/activity.
4. At the discretion of the principal, serious misconduct or continued behavior that results in short-term suspension may result in referral to the child study team and/or the student's guidance counselor.
5. Prior to imposing a suspension on a student with an educational disability, the principal shall consult with a member or members of the child study team. At the time of suspension, a written notification and description of the reason(s) for such action to the parents/guardians with a copy to the child study team.
6. When the suspension of an educationally disabled student exceeds a total of 10 school days accumulated in a school year, the child study team shall review the status of that student in order to:
  - a. Determine if the behavior which resulted in the suspension was primarily caused by the student's educational disability;
  - b. Determine if the student's individualized education program is appropriate;

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- c. Prepare and forward to the principal and parents/guardians a written report with recommendations.
7. Where drugs, alcohol, or any other controlled dangerous substance are involved, certification that the student is not currently using drugs from a doctor shall be required prior the student's return to school.
- B. Long-term suspension (more than 10 days)

Long-term suspension results from a student receiving more than 10 consecutive school days may only be authorized by the Superintendent or his/her designee. A long-term suspension may also be given to a student who is involved in an extremely serious offense (e.g., assault, possession or distribution of controlled or dangerous substance).

In addition to the effects of short-term suspension, long-term suspension may include:

- 1. Referral to the district child study team for evaluations (or re-evaluation for a student classified as having an educational disability). The purpose of the evaluation is for a determination to be made as to whether the student's behavior is primarily caused by his/her educational disability; and
- 2. Depending on the number of days of suspension, tutoring or home instruction may be provided to the student.

Expulsion General

A suspension is a temporary removal from school, while an expulsion is a permanent exclusion from school. The principal will follow the procedure explained in "B. Long-term Suspension" of this regulation while preparing for an expulsion hearing. In addition the student and his/her parents/guardians will be provided with:

- A. Written notice containing the date and time of the hearing and a statement of the specific charges that justify expulsion. The student will also be informed of his/her right to be represented by an attorney;
- B. A list of witnesses against the student and a written report on the facts to which the witnesses will testify;
- C. An opportunity for the student to present his/her own defense and to produce either by oral testimony or written affidavits of witnesses in his/her behalf; and
- D. An opportunity to confront and cross-examine witnesses.

SUSPENSION/EXPULSION (regulation continued)Expulsion Procedures

- A. The principal, assistant principal, and the teacher shall have exhausted all means of bringing about a correction of the misconduct.
- B. The parent(s) or guardian(s) of the student shall have been interviewed and advised of:
  1. The reason why expulsion is being considered; and
  2. The right of the student to a full hearing which will afford the student procedural due process and of the right of the parent(s) or guardian(s) to appeal to the superintendent and the board.

A written statement of charges shall be given to the student and the parents. At the informal or formal hearing the student has the right to have an attorney present.

- C. After notification of the parent, as identified above in “Expulsion Procedures,” or sooner, the student shall be referred to the child study team to determine if the student is eligible for a special education program or service(s) under N.J.S.A. 18A:46-1 et seq. The child shall be referred to the child study team evaluation in accordance with law (20 U.S.C.A. 1400 et seq., *IDEA*) when the district had knowledge that the child was a child with a disability before the behavior that precipitated the disciplinary action occurred. The district shall be deemed to have knowledge that a child is a child with a disability if, before the behavior that precipitated the disciplinary action occurred:
  1. The parent of the child has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the child, that the child is in need of special education and related services;
  2. The parent of the child has requested an evaluation of the child pursuant to law; or
  3. The teacher of the child, or other personnel of the district, has expressed specific concerns about a pattern of behavior demonstrated by the child, directly to the director of special education or to other supervisory personnel.
- D. Exceptions for Referral to the Child Study Team
  1. The district shall not be deemed to have knowledge that the child is a child with a disability if the parent of the child has not allowed an evaluation of the child according to law or has refused services or the child has been evaluated and it was determined that the child was not a child with a disability;
  2. If the district does not have knowledge that a child is a child with a disability prior to taking disciplinary measures against the child, the child may be subjected to disciplinary measures applied to children without disabilities who engaged in comparable behaviors consistent with law.

## E. Limitations

If a request is made for an evaluation of a child during the time period in which the child is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. If

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the child is determined to be a child with a disability, taking into consideration information from the evaluation conducted and information provided by the parents, the district shall provide special education and related services in accordance with law. Pending the results of the evaluation, the child shall remain in the educational placement determined by school authorities.

- F. The board of education cannot take action to expel until it is determined that the student is not eligible for programs or services as identified in the sections above. If the student is determined to be a student with a disability, he/she shall be placed in such program, halting the expulsion proceedings;
- G. The superintendent or his/her designee may suspend the student until the child study team has determined that the student is or is not eligible for a special education program or service, and if the student is not eligible the suspension may be extended until the appeal is completed or until the next board meeting, at which time the case will be presented by the superintendent to the board with the superintendent's recommendation for expulsion;
- H. If the board determines that the charges, if true, may warrant expulsion, the board may at that time set a date for a formal hearing;
- I. The board's attorney will arrange for the giving of legal notice to all parties concerned for the preparation and presentation of the evidence in support of the charged at the hearing. The student is entitled to an attorney;
- J. The hearing must be held within 21 days of the informal hearing.

Appeals to the Superintendent and Board of Education

In order to provide for an orderly process regarding the appeal of student disciplinary decisions made by school principals or assistant principals, all appeals to the superintendent and the board of education shall be in writing.

Written appeals of student disciplinary decisions shall state:

- A. The section of the state law, board of education policy, or school discipline code that was violated;
- B. The decision of the school principal and/or assistant principal, and when appropriate, of the superintendent;
- C. The facts and circumstances involved in the disciplinary action;
- D. The reason or reasons why the school principal's, assistant principal's, and/or superintendent's decision should be changed or reversed;
- E. The remedy or solution sought.

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Written appeals shall be submitted to the superintendent. The superintendent will review the appeal and student disciplinary record. The superintendent may:

- A. Grant or deny the appeal. The decision will be based on evidence that a state law, board of education policy or schools discipline code was violated;
- B. Make recommendation for board of education to hear or not hear the appeal;

The superintendent will inform the parents/guardians in writing of his/her decision.

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