

Prohibited Conduct**Introduction**

Suspension and expulsion are grave acts of lasting significance in the life of a young person. They are acts to be taken when a student's behavior is such that the student's own, or others', learning experiences are disrupted.

This Prohibited Conduct policy 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 policies and the law in accordance with the provisions of Section VII of this policy. It is the School District's intention that its policy be read in such a manner that it conforms to applicable state laws or regulations.

I. Definitions

- a) "Bullying" is conduct which subjects a pupil to insults, taunts, or challenges, whether verbal or physical in nature, which are likely to intimidate or provoke a violent or disorderly response from the student being treated in this manner; and as defined in RSA 193-F:3, I.
- b) "Expulsion" means the denial of a pupil's attendance.
- c) "Firearms or other dangerous weapons" includes, but is not limited to, firearms, or other dangerous weapons as defined by 18 U.S.C. § 921; and RSA 159 which includes, but is not limited to, rifles, pistols, revolvers, pellet guns, BB guns, paintball guns, knives, slingshots, metallic knuckles, firecrackers, billies, stilettos, switchblade knives, sword canes, pistol canes, blackjacks, daggers, dirk knives, or any other substances, object or thing which, by appearance or function, is known, thought to be, or capable of producing death or serious physical injury.
- d) "Gross misconduct" means an act which:
 - 1) Results in injury or violence to another person or property;
 - 2) Poses a direct threat to the safety of others in a safe school zone;
 - 3) Is identified in RSA 193-D:1,1; or
 - 4) Conduct that interferes with the orderly operation of the school.
- e) "Neglect", in the context of RSA 193:13, I and II, means the failure of a pupil to pay attention or comply with a school rule.
- f) "Pupil" means an enrolled student through age 21 in attendance at a school during the school day or any school sponsored function pursuant to ED 317.02.
- g) "Reasonable rules of the school" shall include, but is not limited to the discipline code, all rules of pupil conduct in the student handbook, in any announced, posted or printed school rule.
- h) "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.
- i) "Safe School Zone" means any area that includes school property or school buses, as defined in RSA 193-D:1, II.
- j) "School" as defined in RSA 193-B:1, III
- k) "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 or arrives by any means other than the school bus 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.
- l) “School employee” includes but is not limited to any school administrator, teacher, volunteer, School Board Member 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.
 - m) “School property” means all real property, physical plant and equipment used for school purposes, including, but not limited to, school playgrounds, bus stops and buses, whether public or private.
 - n) “School purposes” means school-sponsored programs including, but not limited to, educational or extracurricular activities.
 - o) “Superintendent” means the school superintendent or chief administering officer, or a representative designated in writing as authorized under RSA 193:13.I.
 - p) “Suspension” means the temporary denial of a student’s attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules pursuant to ED 317.02(j).
 - Any suspension or expulsion of a student with an educational disability as defined in ED 1102.31 shall be in accordance with ED 1119.11.
 - q) “Unlawful possession” in RSA 193-D:I, I(e) shall include, but not be limited to:
 - 1) having control over the object during any part of a school day or while on school property which would include school bus stops or at school-sponsored activities;
 - 2) transporting the object to school property or school-sponsored activities;
 - 3) storing the object anywhere on the school premises, 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 at school-sponsored activity or which causes or contributes to causing an object to be used on school property or at a school-sponsored activity 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; improper bus conduct; 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 beverage 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; 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 drug 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; possession in school of incinerating devices including lighters, matches, cigarettes, firecrackers or smoke bombs, snaps, and caps; vandalism; bomb threats; and criminal threatening, sexual harassment (see Policy JBAA), fighting and bullying.

III. **Expulsion**

- a) Any pupil who engages in, or commits any of the following acts may be expelled from school.
- 1) Any of the offenses in RSA 189:13a, V;
 - 2) Homicide under RSA 630;
 - 3) Any first or second degree assault under RSA 631;
 - 4) Any simple assault under RSA 631:2-a;
 - 5) Any felonious or aggravated felonious sexual assault under RSA 632-A;
 - 6) Criminal mischief under RSA 634:2;
 - 7) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159;
 - 8) Arson under RSA 634:1;
 - 9) Burglary under RSA 635;
 - 10) Robbery under RSA 636;
 - 11) Theft under RSA 637;
 - 12) Illegal sale or possession of a controlled drug under RSA 318-B;
 - 13) Gross misconduct or neglect or refusal to conform to the reasonable rules of the school under RSA 193:13,II;
 - 14) Possession of a pellet or BB gun or rifle under RSA 193:13, II;
 - 15) Criminal threatening under RSA 631:4;
 - 16) Vandalism under RSA 169-B:45;
 - 17) Bomb threats (false reports) under RSA 158:38; and
 - 18) False alarms under RSA's 644:3-a or 644:3-b.
- b) 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 the superintendent's representative designated in writing 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 expulsion by the board to the state board of education. (RSA 193:13,III).

It is the policy of the School Board to allow the superintendent to modify the expulsion requirements of RSA 193:13 II and III on a case-by-case basis. .

IV. **Authority to Suspend**

The superintendent is authorized to suspend students from attending school and school-sponsored activities for a specific period of time for gross misconduct or for neglect or refusal to conform to the school rules.

The Ashland School Board authorizes the principal and assistant principals to suspend or to continue the suspension of a student for a period in excess of ten (10) days in accordance with R.S.A. 193:13.

V. Levels of Discipline

- a) Short-Term Suspension – A suspension of 10 school days or less 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) school days shall be administered by the school board or its representative designated in writing, provided that the designee is not the person who initially suspended the pupil for up to ten (10) days;
- 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 12 months under RSA 193:13, III.

VI. Due Process Procedures

- a) In a short-term suspension of a pupil (10 days or less), due process shall include:
 - 1) The superintendent or representative as designated in writing shall inform the pupil of the purpose of the meeting and provide oral or written notice of the charges and an explanation of the evidence against the pupil;
 - 2) The pupil must be given an opportunity to present his/her side of the story; and
 - 3) A written statement to the pupil and at least one parent or guardian explaining the disciplinary action taken against the student.
- b) In a long-term suspension of a pupil (more than 10 days), due process shall include:
 - 1) 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;
 - 2) The superintendent’s written or oral recommendation to the School Board for pupil action to correct the discipline problem;
 - 3) 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)(6) below;
 - 4) A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;
 - 5) 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 ten (10) school days after issuance of the decision being appealed;
 - 6) If the hearing was held by the School Board, the decision may be appealed to the State Board of Education.
- c) In an expulsion by the school board, due process shall include the following minimal requirements:

- 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;
- 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 and at least five (5) days prior to the hearing;
- 5) The written notice required by (4) above shall include:
 - a. A written statement of the charges and the nature of the evidence against the pupil; and
 - b. The Superintendent's written recommendation for School Board action and a description of the process used by the Superintendent to reach the recommendation.
- 6) The following hearing procedures shall apply:
 - a. The pupil, together with a parent or guardian, may waive the right to a hearing and admit to the charges made by the superintendent;
 - b. 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;
 - c. 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;
 - d. The expulsion hearing shall be recorded or transcribed;
 - e. The hearing shall either be public or private and the choice shall be that of the pupil or his parent or guardian; and
 - f. During the hearing, the pupil, parent, guardian or counsel representing the pupil, shall have the right to examine any and all witnesses.
- 7) 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, proper reason for expulsion.
 - a. 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 including the specific statutory reference prohibiting that act as listed in RSA 193:13, II;
 - b. The decision shall include a statement of the time period for which the student is expelled and any action the student may take to be restored by the School Board; and

- c. A decision shall include a statement that the pupil has the right to appeal the decision to the State Board of Education.
- 8) All appeals 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.
- 9) In all cases, appropriate adjustments shall be made to account for the age and grade level of the pupil being disciplined.

VII. Notification of Students

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

- a) place on the school's notice board.
- b) Copies of the statutes and school policy will be given to all teachers and other school employees.
- c) Copies The student handbooks for all school pupils shall contain a summary of RSA 193:13 and a summary of this policy. Copies of the statutes and this policy shall be available in the principal's office. Notice of the policy and the location of copies shall be displayed in a prominent of the statutes and school policy will be given to any student being disciplined pursuant to its terms.

VIII. Waivers, Appeals and Review

In accordance with RSA 193:13, the following waiver, appeal and review procedures shall be followed:

- a) In case of short- or long-term suspensions, the appeal rights shall be as contained in RSA 193:13, I and ED 317.
- b) In the case of expulsion pursuant to RSA 193:13, II, III and this policy, written application for readmission may be made to the board through the superintendent's office no later than one month prior to the start of each school year. The application may contain a statement in the pupil's own words explaining why he/she should be considered for readmission. The application may be accompanied by at least one recommendation from 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 superintendent's recommendation shall also accompany the application and the 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 may 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 interest and the pupil's best interest 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.

IX. Reporting Procedures

- a) Any school employee who has witnessed or who has information from the victim or witness of an act of theft, destruction, or violence in a safe school zone shall report such act in writing immediately to an immediate supervisor. If the alleged victim is a student, the principal shall also immediately notify the person responsible for the victim's welfare as

defined in RSA 169-C:3 XXII, that a report was made to the local law enforcement authority. A supervisor receiving such report shall immediately forward such information to the principal who shall file it with the superintendent and law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing. The written report to law enforcement is not required if law enforcement has waived the requirement for a written report when there is a law enforcement response at the time of the incident, resulting in a written police report.

This provision 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 pupil so disciplined, notice of the incident and the discipline assigned.

- b) In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction, or violence in a safe school zone shall be on standardized form #Ed 317.

X. Student with an Educational Disability

- a) Any suspension or expulsion of a student with an educational disability as defined in ED 1102.01 (t) shall be in accordance with ED 1124.01
- b) If, under the provision of ED 1124.01 the special education placement team determines that the behavior leading to the suspension or expulsion is not a direct result of the student's educational disability, Section Ed 317.01 through Ed 317.05 shall apply.
- c) In the case of a student with an educational disability who is determined to have brought a firearm or other dangerous weapon into a safe school zone, the federal requirement of Section 20 U.S.C. § 1415 (k) shall apply, and the student may be placed in an interim alternative educational setting for the time periods set forth in 20 U.S.C. § 1415 (k) as provided in ED 1124.01.

Legal References:

RSA 193:13, Suspension and Expulsion of Pupils

RSA 193-D:4, Written Report Required

RSA 631:2-a, Simple Assault

NH Code of Administrative Rules, Section Ed. 306.04(f)(4), Student Discipline

NH Code of Administrative Rules, Section Ed. 306.06, Culture and Climate

NH Code of Administrative Rules, Section Ed. 317.04(b), Disciplinary Procedures

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