

## **P5113 SUSPENSION AND/OR EXPULSION OF STUDENTS BOARD**

### **POLICY:**

**The authority to suspend for a short-term or to propose an extended-term suspension and/or expulsion is delegated to the principal or designee by the Board of Education in accordance with the statutes of the State of Kansas and procedural due process rights as guaranteed under the Individuals with Disabilities Education Act (IDEA), and applicable Kansas statutes and regulations.**

Administrative Implemental Procedures:

1. Expulsion, Short-term Suspension, and Long-term Suspension shall have the meanings ascribed to them by the Code of Conduct (Policy 1464-A), and may be applied only under the circumstances prescribed by the Code of Conduct.<sup>1</sup>
2. "Parent" means: a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.
3. Pursuant to K.A.R. 91-40-34, identified gifted students are not entitled to procedural due process rights under IDEA.
4. The principal or designee may suspend or propose to expel a student from school for any of the following reasons:
  - a. Willful violation of any published, adopted student conduct regulations.
  - b. Conduct, which substantially disrupts, impedes, or interferes with the operation of any public school.
  - c. Conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity.
  - d. Conduct which, if the student is an adult, constitutes the commission of a felony or, if the student is a juvenile, would constitute the commission of a felony if committed by an adult.
  - e. Conduct at school, on school property, or at a school supervised activity, which, if the student is an adult, constitutes the commission of a misdemeanor, or, if the student is juvenile, would constitute the commission of a misdemeanor if committed by an adult.
  - f. Disobedience of an order of a teacher, peace officer, school security officer, or any school authority when such disobedience can reasonably be anticipated to result in disorder, disruption, or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.
5. When a principal or designee imposes a short-term suspension upon a student, the student must be given notice of the charges and must be afforded a hearing thereon. The notice may be oral or written and the hearing may be held immediately. The hearing, though informal, shall

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<sup>1</sup> Pursuant to P1464, the Board of Education has adopted a Student Code of Conduct that applies to all students. The Code of Conduct takes precedence over and supersedes any other any other guide, matrix, handbook, or other document pertaining to student behavior, discipline, disciplinary consequences, or other subject matter addressed by the Code of Conduct. To the extent that the Code of Conduct addresses the same subject matter as this Policy 5113, the Code of Conduct will be broadly construed to override and control over any provisions of P5113 that conflict with or tend to vary the provisions of the Code of Conduct.

- include the following procedural due process requirements:
- a. The right of the student to be present
  - b. The right of the student to be informed of the charges
  - c. The right of the student to be informed of the basis for the accusation
  - d. The right of the student to make statements in defense or mitigation of the charges.
6. A short-term suspension may be imposed upon a student forthwith and without affording the student or parent a hearing if the presence of the student endangers other persons or property or substantially disrupts, impedes, or interferes with the operation of the school.
  7. A written notice of any short-term suspension and the reason therefore shall be given to the student involved and to the student's parent or guardian in accordance with the statutes of the State of Kansas.
  8. The principal or designee shall make every reasonable effort to notify the parent before a student is removed from school and sent home during the school day. If unable to contact the parent, the principal or designee shall either retain the student until the end of the school day or, if necessary, request the assistance of the Department of Children and Families and/or law enforcement.
  9. The principal or designee who imposed the short-term suspension may, at any time, modify or terminate the suspension.
  10. The principal or designee will place on file a brief summary of the reasons for imposing a short-term suspension.
  11. A short-term suspension need not precede a proposal to impose an extended suspension or an expulsion upon a student. If no short-term suspension is imposed, the student shall remain in school until a decision is rendered on the recommendation for an extended suspension or expulsion.
  12. A written notice of any proposal to suspend for an extended term or to expel and the charges upon which the same is based shall be given to the student and to the parent.
    - a. The notice must include the time, date, and place that the student will be afforded a formal hearing.
    - b. The failure of the student and the student's lawful custodian(s) to attend the hearing will result in a waiver of the opportunity for a hearing and the appeal process.
    - c. The hearing shall be held, whenever possible, within five school days after the date of the notice, and shall never be later than ten days after date of notice. The date of notice shall be the date such written notice is mailed or delivered.
    - d. A copy of Board of Education policy Suspension and/or Expulsion of Students and appropriate Kansas statutes regarding suspension and expulsion must be attached to the notice of hearing. The formal hearing shall be conducted pursuant to K.S.A. 72-6114 et seq., as amended.
  13. For students entitled to procedural due process rights under IDEA removal from school through an extended term suspension may constitute or lead to a change in placement in the Individual Educational Program (IEP).
    - a. Prior to conducting a long-term suspension/expulsion hearing involving a student entitled to procedural due process rights under IDEA, the student's IEP team shall meet to

- determine whether the student's behavior that relates to the basis for the proposed longterm suspension/expulsion is or is not a manifestation of the student's disability. A longterm suspension/expulsion hearing shall not be held if the student's behavior that relates to the basis for the proposed long-term suspension/expulsion is a manifestation of the student's disability.
- b. Special Education students who are recommended for potential suspension and/or expulsion shall receive appropriate due process rights in accordance with the IDEA laws and regulations and applicable state statutes and regulations.
  - c. Special Education students who receive long-term suspension/expulsions shall be provided with a free appropriate public education during such suspension/expulsion, in accordance with IDEA laws and regulations and applicable state statutes and regulations.
14. Whenever a formal hearing is to be held regarding a proposed extended-term suspension or expulsion, the student shall be afforded the following procedural due process rights:
- a. The right of the student to have counsel of the student's own choice present and to receive the advice of such counsel or other person whom the student may select.
  - b. The right of the parents of the student to be present at the hearing.
  - c. The right of the student and the student's counsel or advisor to hear or read a full report of testimony of witnesses against the student.
  - d. The right of the student and the student's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena.
  - e. The right of the student to present the student's own witnesses in person or their testimony by affidavit.
  - f. The right of the student to testify on the student's own behalf and give reasons for the student's conduct.
  - g. The right of the student to have an orderly hearing.
  - h. The right of the student to a fair and impartial decision based on substantial evidence.
15. Whenever a hearing results in an extended term suspension or expulsion, the hearing officer will determine whether the student in question may or may not return to class pending an appeal or during the period allowed for notice of appeal.
16. A written notice of the results of the hearing shall be given to the student involved and to the student's parent within 24 hours after a determination is reached. If a student has attained 18 years of age, a copy shall be sent to the parent provided a written consent by the student has been obtained. A copy shall be forwarded to the Superintendent of Schools and Board of Education members.
17. An appeal made from such a hearing must be filed with the Clerk of the Board not later than ten (10) calendar days after receiving written notice of the hearing findings.
- a. The Clerk of the Board, under normal circumstances, will schedule two Board members for an appeal hearing.
  - b. In order to expedite the scheduling of an appeal hearing, the Clerk may contact the Board President, or in the Board President's absence, the Board Vice-President, for permission to schedule one Board member for the appeal hearing.

- c. Board members will provide the Clerk with days and times they are typically available for appeal hearings, as well as preferred contact methods.
  - d. The hearing officer's findings letter and the Board appeal hearing recommendation form will be included in the folder that the Board reviews in Executive Session.
18. Any appeal shall be heard by the Board of Education or a hearing officer appointed by the Board, not later than twenty (20) calendar days after such notice of appeal is filed. This formal hearing shall also be conducted pursuant to K.S.A. 72-6114, et seq., as amended.
  19. The Board of Education shall render its decision based upon the report of the hearing officer(s) no later than five calendar days after the conclusion of the appeal hearing. Unless the appeal hearing officers determine otherwise, the appeal hearing will be closed at the end of Executive Session.
  20. Pursuant to requirements set forth at K.S.A. 2007 Supp. 72-6115(c) as amended in the 2008 Kansas Legislative Session by SB 470, whenever a student who has attained the age of thirteen (13) years has been found in possession of a weapon or illegal drug at school, upon school property or at a school-supervised activity or has engaged in an act or behavior committed at school or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the principal or designee of the school where such an event occurred shall make a report of the event to the Safety and Environmental Services Division Director or designee. The Safety and Environmental Services Division Director or designee shall then make a report of the event to the appropriate law enforcement agency.

Administrative Responsibility: Student Support Services – Hearing Office  
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