| Merchantville Board of Education<br>130 South Centre Street<br>Merchantville, NJ 08109 | File Code : 5114<br>Adopted : 09/27/1988<br>Revised : 10/25/2016<br>Reviewed : 06/03/2024 |
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# Suspension & Expulsion

While the board believes that positive approaches to acceptable behavior are usually more effective, it is sometimes necessary to penalize pupils for violations of school regulations to ensure the good order of the school and to teach pupils the consequences of disruptive behavior.

Pupils who indulge in disruptive behavior may be suspended or expelled. Disruptive behavior includes, but is not limited to:

A. Continued and willful disobedience;

B. Open defiance of the authority of any teacher or person having authority over a pupil;

C. Actions that constitute a continuing danger to the physical well-being of other pupils;

D. Physical assault upon another pupil, 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 pupil 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 pupils to truancy;

J. Truancy and class cutting; leaving school property without permission;

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 pupils or staff members;

R. Selling or buying lottery tickets or any other gambling paraphernalia on school property.

Any pupil who commits an assault (as defined by N.J.S.A. 2C:12-1) with or without a weapon upon a board member, teacher, administrator or other employee of the board of education shall be suspended from school immediately according to procedural due process, and suspension or

expulsion proceedings shall begin no later than 30 calendar days from the date of the pupil's suspension.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property or on a school bus or at a school-sponsored function shall be immediately removed from the school's regular education program for a period of not less than one calendar year. The chief school administrator may modify this suspension on a case-by-case basis. Each pupil so removed shall be placed in an alternative educational program or on home instruction and shall be entitled to a hearing before the board. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program and shall be closed to the public.

The chief school administrator (CSA) shall be responsible for the removal of such students. The CSA shall also notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice.

The chief school administrator shall determine at the end of the year whether the student is prepared to return to the regular education program, in accordance with procedures established by the Commissioner of Education.

In-school Suspension

The board directs the administration to arrange facilities for in-school suspension whenever possible. Pupils will be required to occupy themselves with school-related work during such suspensions. No socializing shall be permitted. Pupils shall be counted as present in school but absent (excused) from individual classes.

General

Pupils on home suspension shall be counted absent (excused) unless the duration of the suspension requires home instruction.

Except when special considerations warrant (at the discretion of the administration), every pupil will be given a written warning in the form of a disciplinary notice that subsequent violation of school regulations may result in his/her exclusion or suspension.

Pupils under suspension are prohibited from participating in or attending any school-regulated activity during the period of their suspension. They may not enter the school buildings or grounds of this district without the permission of the chief school administrator. Any pupil under suspension who enters the school buildings or grounds without the permission of the chief school administrator may have the period of his/her suspension extended. The right to continue the suspension or to expel is reserved to the board of education, acting upon the recommendation of the administration.

Serious violations of school regulations which create a dangerous or unsafe condition for other pupils shall cause a pupil to be suspended upon the first offense.

Making Up Missed Work

Pupils who are under suspension will be required to make up all assignments missed during the period of their suspension and will be given adequate opportunity to make up this work.

Upon their readmission, failure to complete the makeup assignments will result in a meeting with the parents/guardians. The chief school administrator will notify parents/guardians by telephone and promptly send a letter regarding the telephone conversation.

Procedures

The administration shall establish, and the board shall approve, specific procedures for dealing with suspension cases. Regulations ensuring due process to all pupils before a suspension is imposed shall be developed with the advice of the board attorney and shall include at least:

A. Informing the pupil of the charges against him/her;

B. Giving the pupil a chance to reply to them.

These regulations shall also include safeguards for the dismissal of pupils suspended from school, procedures for calling a prompt conference with parents/guardians, limitations on the length of suspensions, and specifics for the reinstatement of pupils.

Every effort shall be made to adjust each suspension promptly so that the pupil can be returned to school with a minimum loss of school time and school work.

When the chief school administrator imposes a suspension, he/she must report it to the board. No suspension for reasons other than assault upon a teacher, administrator, board member or other board employee may continue beyond the second regular meeting of the board following the suspension without board action. No suspension for assault upon a teacher, administrator, board member or other board employee may be continued beyond 30 days without board action. A suspended pupil may be reinstated by the chief school administrator before board action.

Each pupil shall be afforded an informal hearing before the suspension or, if circumstances prohibit, as soon as possible after the suspension except that, when extraordinary circumstances involving the health and safety of the pupil or others in the school require immediate exclusion, the hearing may be delayed to such time as circumstances permit. Pupils suspended for a period of time longer than a short-term suspension shall be afforded a formal hearing before the board which shall take place not later than the second regular meeting of the board following the suspension. If the offense involves a weapon or assault with or without the weapon (as described above), the hearing shall take place not later than 30 days after the suspension occurs.

The board shall make a decision within five days of the close of the hearing. Any appeal of the board's decision shall be made to the Commissioner of Education within 90 days of the board's decision.

The board requires that such hearings shall be closed to the public, but should all parties thereto agree, the hearing may be publicly held. Each suspended pupil who has requested a formal hearing shall be restored to the regular educational program pending the outcome of the

hearing, except when, in the opinion of the chief school administrator, the presence of the pupil in school poses such a danger to himself/herself or others as to warrant continued absence.

Each such pupil suspended from a school in this district shall receive individual instruction commencing not later than five working days after the suspension occurs, except that the board may, on the recommendation of the chief school administrator, assign the pupil to an alternate educational program to meet his/her particular needs (see policy #6172).

Expulsion

The board will consider expulsion only if:

A. The chief school administrator with his/her staff have exhausted all means of bringing about a correction of repeated misconduct; or

B. The nature of a single act presents such a clear possibility of danger to others that immediate definitive action is indicated.

The parents/guardians of the pupil shall be interviewed, if possible, and advised of the reasons why expulsion is being considered, of the rights of the pupil to a full hearing which will afford him/her procedural due process, and the right of parents/guardians to appeal to the chief school administrator.

The child shall remain out of school until either:

A. An appeal made to the chief school administrator is decided in the child's favor; or

B. The appeal (if made) has been denied and the board has met to hear the chief school administrator's recommendation.

If the board determines that the charges, if true, may warrant expulsion, the board will set a date for the hearing. The board attorney will arrange for the giving of legal notice to all parties concerned for the preparation and presentation of evidence in support of the charges at the hearing.

The pupil must receive:

A. Notification of the charges against him/her;

B. The names of the adverse witnesses;

C. Copies of the statements and affidavits of those adverse witnesses;

D. The opportunity to be heard in his/her own defense;

E. The opportunity to present witnesses and evidence in his/her own defense;

F. The opportunity to cross-examine adverse witnesses; and

G. The opportunity to be represented by counsel.

Juvenile authorities and law enforcement agencies shall be notified or consulted if necessary.

If a pupil younger than 18 years of age is expelled, the board shall continue to supply an educational program for him/her.

Implementation

The chief school administrator shall develop detailed written procedures to implement this policy. He/she shall ensure uniform and consistent application of the policy and shall report to the board as required on its effectiveness.

The chief school administrator or his or her designee shall annually evaluate district data regarding short- and long-term suspensions and expulsions and take measures as appropriate to ensure that minority and male students are not disproportionately represented in detentions, suspensions and expulsions.

When an alternative educational program is provided for a pupil identified as disruptive but not disabled, the chief school administrator shall inform the board.

**Key Words**

Suspension, Expulsion, Pupil Suspension/Expulsion, Student Suspension/Expulsion

**QSAC Monitored:**

DPR: Governance – 1
SOA: Governance – 1

**Legal References:**

N.J.S.A. 2C:12-1 Definition of assault
N.J.A.C. 2C:39-1(f) Definition of firearm
N.J.S.A. 18A:11-1 General mandatory powers and duties
N.J.S.A. 18A:37-1 et seq. Discipline of pupils
See particularly:
N.J.S.A. 18A:37-2.1 through -2.5, 18A:37-7 through -12 Z Zero Tolerance for Guns Act
N.J.S.A. 18A:40A-1 et seq. Substance abuse
See particularly:
N.J.S.A. 18A:40A-9, -10, -11, -12
N.J.S.A. 18A:54-20 Powers of board (county vocational schools)
N.J.A.C. 6A:14-2.8 Discipline/suspension/expulsions
N.J.A.C. 6A:16-1.1 et seq. Programs to Support Student Development
See particularly:
N.J.A.C. 6A:16-1.3, -4.3, -5.1, -5.5, -5.6, -5.7
N.J.A.C. 6A:30-1.1 et seq. Evaluation of the Performance of School Districts

18 U.S.C.A. 921 Definition of firearm
20 U.S.C.A. 1400 et seq. - Section 504 of the Rehabilitation Act of 1973

P.L. 103-382, Improving America's Schools Act of 1994

Goss v. Lopez, 419 U.S. 565, 581 (1975)

Tibbs v. Franklin Township Board of Education, 114 N.J. Super. 287 (App. Div.) aff'd 59 NJ 506 (1971)

R.R. v. Shore Reg. Board of Education, 109 N.J. Super. 337 (Ch. Div. 1970)

H.A. v. Board of Education Warren Hills Regional, 1976 S.L.D. 336

82: July 28, C.F. v. Board of Education of the Upper Freehold Regional School District

Honig v. Doe, 484 U.S. 305 (1988)

Somerset County Educational Services Commission v. North Plainfield Board of Education1999 S.L.D. September 7

State in re G.S. 330 N.J. Super. 383 (Ch. Div. 2000)

P.L. 2010, c.122 amended N.J.S.A. 18A:37-2 to include harassment, intimidation or bullying as a good cause for suspension or expulsion.

See also Commissioners' Decisions indexed under "Pupils—Punishment of" in Index to N.J. School Law Decisions

A Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials

D.H. o/b/o/ Minor Child, G.H. v. West Orange Twp. Bd. of Educ., EDU 127-07, Final Decision (April 5, 2007), http://www.state.nj.us/education/legal/commissioner/2007/apr/124-07.pdf

J.G. o/b/o/ J.G. v. Secaucus Bd. of Educ., EDS 9178-03, Final Decision (Feb. 26, 2004), http://njlaw.rutgers.edu/collections/oal/final/eds09178-03_1.html

**Possible Cross References:**

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| *5113 | Attendance, absences and excuses |
| *5124 | Reporting to parents/guardians |
| *5131 | Conduct/discipline |
| *5131.1 | Harassment, intimidation and bullying |
| *5131.5 | Vandalism/violence |
| *5131.6 | Drugs, alcohol, tobacco (substance abuse) |
| *5131.7 | Weapons and dangerous instruments |
| *6154 | Homework/makeup work |
| *6164.2 | Guidance services |
| *6164.4 | Child study team |
| *6171.4 | Special education |
| *6172 | Alternative educational programs |
| *6173 | Home instruction |

*Indicates policy is included in the Critical Policy Reference Manual.