

# BOARD POLICY

JD

## STUDENTS STUDENT DISCIPLINE

AUGUST 21, 2017

This statement does not cover the school district's attendance and tardy policies and the school district's requirements for credit and graduation. Rather, this statement covers only the most serious and obvious types of misconduct, and the following rules are not to be construed as an all-inclusive list or as a limitation on the authority of school officials to deal appropriately with violations of a school building's individual rules and regulations or other types of conduct which interfere with the good order of the school system, the proper functioning of the educational process, or the health or safety of students.

If a specific penalty is not stated for a violation of a particular rule, then disciplinary action may vary depending upon the age of the student, the nature and severity of the offense, the student's prior behavioral record, the recommendation of school personnel and all other relevant circumstances. Penalties can include warning, restorative practices, suspension, or expulsion.

The prohibited acts and penalties listed below are applicable when a student (1) is on school property; (2) is in a vehicle being used for a school business-related purpose; (3) is at a school-related activity, function or event; (4) is en route to or from school; (5) engages in a prohibited act which adversely affects or interferes with the good order of the school system, the proper functioning of the educational process or the health or safety of the students or the employees.

### I. PROHIBITED ACTS

#### A. Disruption of School

A student shall not by any type of conduct (violence, force, noise, coercion, threat, intimidation, fear, passive resistance, etc.) intentionally cause the disruption or obstruction of any function of the school nor shall he/she engage in such conduct if such disruption or obstruction is reasonably likely to result.

Neither shall he/she urge other students to engage in such conduct for the purpose of causing such disruption or obstruction if such disruption or obstruction is reasonably likely to result from his/her urging.

While the following acts are not intended to be exclusive, they illustrate the kinds of offenses encompassed within this rule, but it must be remembered that any conduct which is intentionally done for the purpose of disruption, or is likely to result in disruption, is forbidden.

1. Occupying any school building, school grounds, or a part thereof with intent to deprive others of its use;
2. Blocking the entrance or exits of any school building or corridor or room therein with intent to deprive others of lawful access to or from, or use of, the building or corridor or room;
3. Setting fire to or substantially damaging any school building or property;
4. Firing, displaying, possessing or threatening use of firearms, explosives, or other weapons;
5. Prevention of or attempting to prevent by physical act the convening or continued functioning of any school, class or activity or of any lawful meeting or assembly;
6. Preventing students from attending a class or school activity;
7. Except under direct instruction of the principal, blocking normal pedestrian or vehicular traffic on a school campus;
8. Intentionally causing or behaving in such a way as to cause a false fire alarm or bomb threat; and
9. Continuously making noise or acting in any manner so as to interfere with the teacher's ability to conduct his/her class.

Penalty - Ranging from warning to expulsion

B. **Theft, Damage or Destruction of School Property**

A student shall not intentionally cause or attempt to cause damage to school property or steal or attempt to steal school property.

Penalty - Ranging from warning to expulsion

C. **Theft, Damage or Destruction of Private Property**

A student shall not intentionally cause or attempt to cause damage to property or other persons or steal or attempt to steal property of other persons.

Penalty - Ranging from warning to expulsion

D. **Assault on Another Person**

A student shall not cause or attempt to cause physical injury to a school employee, student or other person.

Penalty - Ranging from warning to expulsion

E. **Weapons and Dangerous Instruments**

A student shall not possess, handle, or transmit any object that can be considered a weapon or dangerous instrument.

Penalty - Ranging from warning to expulsion

F. **Failure to Comply with Directions of School Personnel**

A student shall not fail to comply with instructions and directions of teachers, student teachers, substitute teachers, paraprofessionals, principals, other school personnel, or persons acting in a chaperon or supervisory capacity.

Penalty - Ranging from warning to expulsion

G. **Criminal Acts**

A student shall not commit or participate in any conduct or act defined as a crime by state law or local ordinance.

Penalty - Ranging from warning to expulsion

H. **Verbal Abuse and Profanity**

A student shall not verbally abuse another student, teacher, student teacher, substitute teacher, paraprofessional, principal, or other school personnel nor use profanity toward a teacher, student, student teacher, substitute teacher, paraprofessional, principal, or other school personnel.

Penalty - Ranging from warning to expulsion

I. **Verbal Assault**

A student shall not commit a verbal assault on a student, teacher, substitute teacher, student teacher, paraprofessional, principal, or other school personnel.

Penalty - Ranging from warning to expulsion

*The term "verbal assault," as used in this policy and in Section 1311a(2) of the Revised School Code, means words, writing or behavior that, in the judgment of building administration, would reasonably put school personnel or students in fear of injury to persons or damage to property.*

J. **Bomb or Similar Threats**

A student shall not make a bomb threat or similar threat directed at a school building, other school property or a school-related event.

Penalty - Ranging from warning to expulsion

*The term "bomb or similar threats" as used in this policy and in Section 1311a(2) of the Revised School Code means words, writing or behavior, directed at a school building, school property or school-related event, that, in the judgment of building administration, would reasonably put school personnel or students in fear of injury to persons or damage to property by a bomb, chemical or incendiary device, or other weapon.*

K. **Violations of Building's Rules and Regulations**

A student shall not commit or participate in any conduct or act prohibited by a school building's rules and regulations.

Penalty - Ranging from warning to expulsion

L. **Alcohol**

A student shall not manufacture, sell or possess, use, deliver, transfer, or be under the influence of any alcoholic beverages or intoxicant of any kind.

Penalty - Ranging from warning to expulsion

M. **Drugs, Narcotic Drugs and Marijuana**

A student shall not manufacture, sell, possess, use or deliver any drugs, narcotic drugs, marijuana or other controlled substance nor be under the influence of any of those drugs, narcotic drugs or marijuana. A student shall not represent a legal substance as an illegal or controlled substance.

Penalty - Ranging from warning to expulsion

N. **Smoking**

A student shall not use or possess tobacco products or e-cigarettes inside any school building or on the school grounds or at any school activity.

Penalty - Ranging from warning to expulsion

O. **Toy Weapons**

A student shall not possess a toy "look alike" gun or other weapon.

Penalty - Ranging from warning to expulsion

P. **Gang Activity**

A student shall not engage in gang activity.

Penalty - Ranging from warning to expulsion

Q. **Recording Without Permission**

A student shall not record by any means (i.e., audio, video, or digital, etc.) a communication from or with any administrator, teacher, or other School District employee without the expressed permission of the person recorded for the particular communication recorded.

Penalty - Ranging from warning to expulsion

R. **Making False Statement**

A student shall not make false statements or give false evidence to administrators or teaching staff during an investigation of possible violation of this Code of Conduct.

Penalty - Ranging from warning to expulsion

S. **Falsification of School Document**

A student shall not falsify times, dates, grades, or other data on school district forms or records.

Penalty - Ranging from warning to expulsion

T. **Inappropriate Communications**

A student shall not make threatening, vulgar and/or obscene communications, verbally, in writing, or by gestures, to other students, district employees, volunteers, or visitors to the school building.

Penalty - Ranging from warning to expulsion.

U. **Fireworks/Explosives/Smoke Devices**

A student shall not possess, handle, or transmit any substance or device that can explode, create smoke, or is capable of inflicting bodily injury.

Penalty - Ranging from warning to expulsion

V. **Misconduct Prior to Enrollment**

In order to protect the health and safety of students and employees and to prevent threatened disruption to the education process, an otherwise eligible resident student may be suspended or expelled on the basis of:

- a. A prior act of misconduct committed outside of school hours and/or off school premises when the student was not enrolled in the Livonia Public Schools.
- b. A prior act constituting a gross misdemeanor and other acts of misconduct, while the student was enrolled in another district.

If the act of gross misdemeanor or other misconduct would constitute a sufficient basis for suspension or expulsion had it occurred while the student was attending the Livonia Public Schools.

Penalty - Ranging from warning to expulsion.

## **II. POLICY FOR REVISED SCHOOL CODE SECTION 1309 - TEACHER-IMPOSED SUSPENSION**

Teachers may suspend students from a class, subject or activity, pursuant to Section 1309 of the Revised School Code, for misconduct that poses a clear threat of imminent injury to persons or property. Specifically, for committing offenses that violate provisions of the Student Code of Conduct involving:

- A. Physically fighting with or assaulting another person resulting in physical injury.
- B. Possessing, using or being under the influence of alcohol or a controlled substance.
- C. Having a “dangerous weapon” as defined by the Revised School Code.
- D. Possessing or using fireworks or explosives.
- E. Destroying or defacing school property.
- F. Causing a false fire alarm.
- G. Verbal assault directed at a student or staff member.

Teachers who suspend students pursuant to this policy must do so consistent with all other applicable Board policies, including the Student Code of Conduct, and all applicable federal and Michigan laws, including Section 1309 and laws pertaining to the education of disabled students.

## **III. PROCEDURES GOVERNING VIOLATION OF SCHOOL RULES**

### **A. Introduction to Rules of Due Process**

The following procedures only govern the suspension or expulsion of a student from the school district's regular educational program.

The suspension or expulsion of a student from an extracurricular activity is not covered by this Code of Conduct or the procedures of due process, and accordingly a decision of suspension or expulsion is solely within the discretion of the building principal or designee. In addition, discipline in the nature of an in-school suspension or exclusion of a student from class, or in the nature of a

written reprimand, detention, and/or work assignment before or after school, additional classroom assignments, etc., is also solely within the discretion of the building principal or designee and is not covered by this Code of Conduct or the procedures of due process.

If a student charged with a violation of the Code of Conduct has been returned to the regular school program pending a decision by either the principal, appropriate director for elementary or secondary instruction, hearing officer, or Board of Education, then such action of reinstatement shall not limit or prejudice the school district's right to suspend or expel the student following a decision by the principal, directors for elementary or secondary instruction, hearing officer or Board of Education.

**B. Definition of Discipline**

1. Restorative Practice - Practices that emphasize repairing the harm to the victim and the school community caused by the pupil's misconduct.
2. Suspension - The exclusion of a student from school for a specific period of time, terminating at the end of a specific period or upon the fulfillment of a specific set of conditions.
3. Expulsion - The permanent exclusion from the school system by action of the Board of Education.

**C. Factors to be Considered Before Suspension or Expulsion**

Section 1310d of the Revised School Code requires school officials to consider each of the following seven factors before suspending or expelling a student (except for students being expelled for possession of a firearm in a weapon free school zone):

1. the student's age;
2. discipline history;
3. disability;
4. the seriousness of the behavior,
5. whether the behavior posed a security risk to any student, staff member, or other individual;
6. restorative practices, and
7. whether a lesser intervention would properly address the behavior.

Note: Restorative practices may be used in addition or as an alternative to suspension or expulsion.

Except for students being expelled for possession of a firearm in a weapon free school zone, the above seven factors shall be considered prior to any decision to suspend or expel a student, including an initial decision to suspend or expel a

student or an appeal of a decision to suspend or expel a student. School official(s) shall document their consideration of these factors.

**D. Suspension of Ten (10) School Days or Less**

**Step One:** The initial judgment that certain conduct violates school rules of conduct shall be made by the principal or assistant principal. Prior to any suspension of the student, the principal shall investigate the incident, shall inform the student of the charges against him/her, shall provide to the student an explanation of the evidence the principal possesses, and shall provide the student with an opportunity to explain his/her version of the facts. If the student requests that other witnesses be questioned, the principal should talk to those witnesses if possible.

If the student makes a reasonable claim or other defense that, if true, would free him/her from blame, but the evidence is not immediately available, the principal may postpone disciplinary action for a reasonable time if the student's continued presence in school would not present an immediate danger to himself/herself, other students, or the educational process.

If, upon conclusion of the investigation and meeting with the student, the principal determines that the student has violated the rules of conduct, he/she may impose the disciplinary action of a suspension not to exceed ten (10) school days.

A disciplinary suspension of five (5) school days or less shall be at the sole discretion of the building principal and shall not be subject to an appeal by the student, parents or guardian. However, if the principal imposes a suspension in excess of five (5) school days but less than eleven (11) school days, the student and/or his/her parents or guardians may appeal the principal's decision to the superintendent or his designee.

**Step Two:** If an appeal is going to be made to the director of elementary or secondary instruction or his/her designee, it should be requested within two school days following notification to the student and student's parents or guardian of the principal's disciplinary action. If a timely requested appeal is not made, the principal's disciplinary action shall not be subject to further review.

If a timely requested appeal is made by the student and/or his/her parents or guardian, and the director for elementary or secondary instruction or his/her designee determines that the student's continued presence in school would not present an immediate danger to himself/herself, other students, or the educational process, the student shall be returned to school after three (3) school days pending a conference with one of the directors for elementary or secondary instruction. The appeal before the director for elementary or secondary instruction or his/her designee shall be conducted on an informal basis and the



student and/or his/her parents or guardian shall be told of the evidence against the student and be given an opportunity to explain their version of the facts.

The director for elementary or secondary instruction or his/her designee, following the informal conference, shall inform the student and/or his/her parents or guardian of the decision, and the director for elementary or secondary instruction's decision shall be final and not subject to further review.

**E. Suspension for Eleven (11) or More School Days and Expulsion**

**Step One:** If, after his/her investigation, the principal decides that a suspension for eleven (11) or more school days or expulsion is warranted, and the director of elementary or secondary instruction or his/her designee agrees with the principal's decision, the student and the parents or guardian shall be notified of:

- a. the charges against the student;
- b. the recommended disciplinary action;
- c. the fact that a hearing will be held before an impartial school employee; the time, place, location, and procedures to be followed at the hearing;
- e. the right to appeal any adverse decision of the hearing officer if the suspension is for more than 20 days.

If the director of elementary or secondary instruction or designee decides that the student's presence in school would present a danger to the student himself, to other students, school personnel, or the educational process, then the student shall be suspended pending the decision of the hearing officer. If the student would not present a danger as described above, the student shall be returned to school pending the decision of the hearing officer.

If the student is suspended pending a decision of the hearing officer, the superintendent or designee shall appoint the hearing officer and provide for a hearing to take place within seven (7) school days following the initial suspension of the student. If the student is not suspended pending the decision of the hearing officer, the superintendent or designee shall appoint the hearing officer and cause the hearing to be held within fifteen (15) school days following the completion of the principal's initial investigation.

**Step Two:** Unless the student and/or his/her parents or guardian notify the school district that they waive their right to a hearing before a hearing officer, a hearing before a hearing officer will be conducted within the time limits set forth above and will be held for the purpose of determining the truth or falsity of the charges against the student and, if the charges are true, the appropriate disciplinary measure.

**Step Three:** The hearing officer's decision shall be given orally, if possible, to the student and parents or guardian within two (2) days after the close of the

hearing, and a written decision shall be mailed within four (4) days after the close of the hearing.

If the hearing officer's decision imposes a suspension of twenty (20) school days or less, then the decision of the hearing officer shall be final and not subject to further appeal. However, if the hearing officer's decision imposes a suspension in excess of twenty (20) school days or recommends expulsion, the student and/or his/her parents or guardian may appeal the hearing officer's decision to the Board of Education.

The hearing officer may amend the principal's charges upon motion of the principal or amend the charges upon his/her own motion to conform to the evidence presented at the hearing. Additionally, the hearing officer may impose a greater or lesser penalty than that imposed or recommended by the principal. The hearing officer should not merely substitute his/her judgment for that of the principal's judgment.

**Step Four:** If an appeal is going to be made to the Board of Education concerning the hearing officer's decision, the student and/or his/her parents or guardian must request in writing the hearing within five (5) calendar days following receipt of the hearing officer's written decision.

Upon receipt of a timely appeal by the student and/or his/her parents or guardians, the superintendent shall notify the student and parents or guardians of the time, place, location and procedures to be followed at the Board hearing and shall determine, based upon the record made before the hearing officer, whether the student should be suspended pending the decision of the Board of Education.

Upon the timely request for hearing before the Board of Education, the Board shall review the decision and record made before the hearing officer and shall provide for a hearing to take place for the purpose of allowing the student, parents or guardian to present oral argument why they disagree with the hearing officer's decision and to present any additional evidence which could not have been presented at the hearing before the hearing officer.

The Board, not later than at its next regular public meeting following the hearing, shall issue a decision and shall, within seven (7) days following the public meeting, mail to the student, parents or guardians a written decision.

If the hearing officer's decision recommends expulsion and the student and/or his/her parents or guardians do not timely request a hearing before the Board of Education, the Board of Education will nevertheless make the final decision on expulsion, but the decision will be based upon information submitted to it by appropriate school officials and a formal hearing will not be allowed the student and parents or guardian.

If the hearing officer's decision imposes suspension of twenty (20) school days or more and the student and/or his/her parents or guardians do not timely request a hearing before the Board of Education, then the decision of the hearing officer shall be final and not subject to further appeal.

During any suspension, the student will not be permitted on any school property, in any school building, or admitted to any school function. School-related activities include Career Center, Skills Center, Vocational Programs and Cooperative Educational Training. Days missed resulting from suspension will be included in the total number of days absent, which may result in a student being placed on an attendance plan or being withdrawn from a class.

A student with unexcused absences will not receive credit for the class activities missed; however, a student will be able to make up for credit those assignments and tests which are essential to the completion of the course if the unexcused absence results from suspension from school. The responsibility for such makeup is with the student at the convenience of the teacher. The course of appeal is with the building administrator.

LEGAL REF.: MCL, 380.11, 1999 PA 102, 1999 PA 103, 1999 PA 104, *Goss v. Lopez*, 419 U.S. 565 (1975), *Birdsey v. S. Grand Blanc Community Schools*, 130 Mich App 718, 344 NW2d 342 (1983) (Legal References Updated 3/12/07)