

Students

Removal/Suspension/Expulsion

I. Definitions

- A. **“Exclusion”** is defined as any denial of public school privileges to a student for disciplinary purposes.
- B. **“Removal”** is defined as an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond 90 minutes.
- C. **“Suspension”** is defined as an exclusion from school privileges and/or from transportation services for not more than ten (10) consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.
- D. **“In-school suspension”** is defined as an exclusion from regular classroom activity for not more than five consecutive school days, but not an exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed. An in-school suspension may include reassignment to a regular classroom program in a different school in the school district; such reassignment shall not constitute a “suspension” or “expulsion” under this policy.
- E. **“Expulsion”** is defined as an exclusion from school privileges for more than ten (10) consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such student was assigned at the time such disciplinary action was taken, provided such exclusion shall not extend beyond a period of one (1) calendar year. Such period of exclusion may extend to the school year following the school year in which such exclusion was imposed.
- F. **“Emergency”** is defined as a situation under which the continued presence of the student in the school imposes such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such student as possible.
- G. **“Days”** is defined as days when school is in session.
- H. **“School sponsored activity”** is defined as any activity sponsored, recognized or authorized by the Board of Education and includes activities conducted on or off school property.
- I. **“Possess”** means to have physical possession or otherwise to exercise dominion or control over tangible property.
- J. **“Deadly weapon”** means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, metal knuckles, device containing either solid or liquid chemical components which can yield explosive energy or a facsimile thereof.

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I. Definitions (continued)

- K.** “**Dangerous instrument**” means any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury, and includes a motor vehicle and a dog that has been commanded to attack.
- L.** “**Firearm**” means 1) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; 2) the frame or receiver of any such weapon; 3) any firearm muffler or firearm silencer; or 4) any destructive device. Firearm does not include any antique firearm. For purposes of this definition “destructive device” means any explosive, incendiary, or poison gas, bomb, grenade, rocket having a propellant charge of more than 4 ounces, missile having an explosive or incendiary charge of more than ¼ ounce, mine, or device similar to any of the weapons described herein.
- M.** “**Vehicle**” means a “motor vehicle” as defined in Section 14-1 of the Connecticut General Statutes, snow mobile, any aircraft, or any vessel equipped for propulsion by mechanical means or sail.
- N.** “**Martial arts weapon**” means a nunchaku, kama, kasari-fundo, octagon sai, tonfa or chinese star.

II. Removal From Class

- A.** Each teacher shall have the authority to remove a student from class when such student deliberately causes a serious disruption of the educational process within the classroom, provided that no student shall be removed from class more than six times in any year, nor more than twice in one week unless such student is referred to the building principal, or his/her designee, and granted an informal hearing as set forth in section IV C of this policy.
- B.** Whenever any teacher removes a student from the classroom, such teacher shall send the student to a designated area and shall immediately inform the building principal or his/her designee as to the name of the student against whom such disciplinary action was taken and the reason therefor.

III. Standards Governing Suspension and Expulsion

- A.** Conduct on school grounds or at a school sponsored activity as set forth in Section C, herein, or that is otherwise prohibited by Board policy or by any code of student conduct in effect in the schools, that is:
 - 1. Violative of a publicized policy of the Board, or
 - 2. Is seriously disruptive of the educational process, or
 - 3. Endangers persons or property will be cause for suspension and/or expulsion.

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III. Standards Governing Suspension and Expulsion (continued)

- B. Conduct off school grounds as described in paragraph A, above, that is:
 - 1. Violative of a publicized policy of the Board, and
 - 2. Seriously disruptive of the educational process will be cause for suspension and/or expulsion.
- C. The following exemplifies student conduct that is prohibited and will result in suspension and/or expulsion:
 - 1. Threatening in any manner, including orally, in writing, or via electronic communication, a member of the school community, including any teacher, member of the school administration or any other employee, or a fellow student;
 - 2. Use of physical force against another person which is not reasonably necessary for self-defense;
 - 3. Theft of personal or school property, or taking or attempting to take personal property or money from another person, or from his/her presence, by means of force or fear;
 - 4. Willfully causing, or attempting to cause, damage to school property;
 - 5. Participation in an unauthorized occupancy of any part of any school or school premises or other building owned by any school district, and failure to leave such school premises or other facility promptly after having been directed to do so by the principal or other person then in charge of such building or facility;
 - 6. Intentional incitement which results in an unauthorized occupation of any part of a school or other facility owned by any school district;
 - 7. Possession, use, transmission or being under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind;
 - 8. Possession or transmission of a facsimile of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, or marijuana,
 - 9. Knowingly being in the presence of those who are in possession of, using, transmitting, or being under the influence of any narcotic drug, hallucinogenic drug, amphetamine, barbiturate, marijuana, alcoholic beverage, or intoxicant of any kind;
 - 10. Possession or transmission of any firearm, deadly weapon, dangerous instrument, martial arts weapon, knife, or facsimile of any such weapon or instrument.

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III. Standards Governing Suspension and Expulsion (continued)

11. Using or copying the academic work of another and presenting it as his/her own without proper attribution;
12. Possessing or consuming tobacco products.
13. Open defiance of the authority of any teacher or person having authority over the student, including verbal abuse;
14. Intentional and successful incitement of truancy by other students;
15. Violation of any federal or state law which would indicate that the violator presents a danger to any person in the school community or to school property, and;
16. Violation of any other Board policy, rule, agreement, or directive dealing with student conduct, including that dealing with conduct on school buses and the use of school district equipment.
17. Leaving school grounds without permission.

- D. Expulsion proceedings pursuant to section V, shall be required whenever there is reason to believe that any student 1) was in possession of a firearm, deadly weapon, dangerous instrument or martial arts weapon, on school grounds or at a school-sponsored activity; 2) off school grounds, did possess a firearm or did possess and use such a firearm, dangerous instrument, deadly weapon or martial arts weapon in the commission of a crime; or 3) on or off school grounds, offered for sale or distribution a controlled substance as defined in Connecticut General Statutes, §21a-240(9), whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering or administering is subject to criminal penalties under §21a-277 and 21a-278. A student shall be expelled for a period of one calendar year if the Board of Education finds that the student engaged in any of the conduct described herein, provided the period of expulsion may be modified on a case-by-case basis.

In the event it is determined by the Superintendent that a student issued a threat against a member of the school community as described in paragraph C. 1, above, the matter shall be referred to law enforcement officials for possible criminal prosecution and the Superintendent shall take all available measures to ensure the safety of persons in the school community in the event of the student's return to school.

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Removal/Suspension/Expulsion (continued)

IV. Suspension Procedure

- A. The administration of each school shall invoke suspension for a period of up to ten (10) days, or to invoke in-school suspension for a period of up to five (5) days, of any student for one or more of the reasons stated in section III, above, in accordance with the procedure outlined in Paragraph C of this section. Any such suspension shall commence on the day of the infraction that caused such suspension. Moreover, the administration is authorized to suspend a student from transportation services whose conduct while receiving transportation violates the standards set forth in section III, above. The school administration is authorized to immediately suspend any student when there is an emergency as defined in section I, above.

If an emergency exists, the hearing outlined in Paragraph C of this section shall be held as soon as possible after the suspension.

- B. In the case of suspension, the school administration shall notify the Superintendent of Schools within twenty-four (24) hours of the suspension as to the name of the student who has been suspended and the reason for suspension. Any student who is suspended shall be given an opportunity to complete any class work including but not limited to examinations missed during the period of his/her suspension.
- C. Except in the case of an emergency as defined in section 1, above, a student shall be afforded the opportunity to meet with a member of the administration and to discuss the stated charges prior to the effectuation of any period of suspension or in-school suspension. If at such a meeting the student denies the stated charges he/she may at that time present his/her version of the incident(s) upon which the proposed suspension is based. The school administration shall then determine whether or not suspension or in-school suspension is warranted. In determining the length of a suspension period, the school administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, in-school suspension, suspension or expulsion.
- D. No student shall be suspended more than five (5) times or a total of twenty-five (25) days in one school year, whichever results in fewer days of exclusion, unless a hearing as provided in section V B. of this policy is first granted.
- E. No student shall be placed on in-school suspension more than five (5) times or a total of twenty-five (25) days in one school year, whichever results in fewer days of exclusion, unless a hearing as provided in section V B. of this policy is first granted.

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IV. Suspension Procedure (continued)

- F. Whenever a student is suspended, notice of the suspension and the conduct for which the student was suspended shall be included on the student's cumulative educational record. Such notice shall be expunged from the cumulative educational record if the student graduates from high school.

V. Expulsion Procedures

The Board of Education may expel any student for one or more of the reasons stated in section III if, in the Superintendent's judgment, such disciplinary action is in the best interests of the school system. An expulsion hearing is required in any instance in which the Superintendent has reason to believe a student has engaged in the conduct described in section III D. The procedures outlined in Paragraphs A and B, below, shall be followed prior to the effectuation of any expulsion unless an "emergency" as defined in section I, above, exists. If an emergency exists, such a hearing shall be held as soon after the expulsion as possible.

- A. The Board of Education shall notify the student concerned and his/her parents, or the student if he/she has attained the age of eighteen (18), that expulsion is under consideration. Such notice shall contain the information required under Paragraph B of this section. Three members of the Board of Education shall constitute a quorum for an expulsion hearing. A student may be expelled if a majority of the Board members sitting in the expulsion hearing vote to expel provided that three affirmative votes shall be required for expulsion.
- B. The procedure for any hearing conducted under this section shall be determined by the hearing officer or Board Chairperson, as appropriate, but shall include the right to:
1. Notice of the proposed hearing which shall include:
 - a. a statement of the time, place, and nature of the hearing;
 - b. a statement of the legal authority and jurisdiction under which the hearing is to be held;
 - c. a statement that students under sixteen years old who are expelled and students between sixteen and eighteen who have been expelled for the first time and who comply with conditions set by the Board of Education, must be offered an alternative educational opportunity;
 - ~~d.~~ reference to the particular sections of the Connecticut General Statutes or school policies involved;
 - ~~e.~~ a short and plain statement of the matters asserted, if such matters have not already been provided in a statement of reasons requested

by the student, the statement so provided may be limited to a statement of the issues involved if it is not possible to state the issues in detail at the time such notice is served. Upon request from the student concerned a more definite and detailed statement of the issues shall be furnished; and

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V. Expulsion Procedures (continued)

2. The opportunity to be heard;
 3. The opportunity to present witnesses and evidence;
 4. The opportunity to cross-examine adverse witnesses;
 5. The opportunity to be represented by counsel; and
 6. Prompt notification of the decision of the Board of Education which decision shall be in writing if adverse to the student concerned.
- C. The record of any hearing held in an expulsion case shall include the following:
1. All evidence received or considered by the Board of Education, including a copy of the initial letter of notice of proposed expulsion, if any, and a copy of all notices of hearing;
 2. Questions and offers of proof, objections and rulings on such objections;
 3. The decision of the Board of Education rendered after such hearing; and
 4. The official transcript, if any, of proceedings relating to the case, or, if not transcribed, any recording or stenographic record of the proceeding.
- D. Rules of evidence at expulsion hearings shall include the following:
1. Any oral or documentary evidence may be received by the Board of Education but as a matter of policy irrelevant, immaterial or unduly repetitious evidence shall be excluded;
 2. The Board of Education shall give effect to the rules of privilege recognized by law;
 3. In order to expedite a hearing, evidence may be received in written form, provided the interest of any party is not substantially prejudiced thereby;
 4. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available provided, however, that any party to a hearing shall be given an opportunity to compare the copy with the original;
 5. A party to an expulsion hearing may conduct cross-examination of witnesses where examination is required for a full and accurate disclosure of the facts;
 6. The Board of Education may take notice of judicially cognizable facts in addition to facts within the Board's specialized knowledge provided, however, the parties shall be notified either before or during the hearing of material noticed, including any staff memoranda or data, and an opportunity shall be afforded to any party to contest the material so noted;

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V. Expulsion Procedures (continued)

7. A record of any oral proceedings before the Board of Education at an expulsion hearing shall be made provided, however, that a transcript of such proceedings shall be furnished upon request of a party with the cost of such transcript to be paid by the requesting party.
- E. In determining the length of an expulsion, the Board of Education may receive and consider evidence of past disciplinary problems, which have led to removal from a classroom, in-school suspension, suspension, or expulsion.
- F. Decisions shall be in writing if adverse to the student and shall include findings of fact and conclusions necessary for the decision. Findings of fact made by the Board after an expulsion hearing shall be based exclusively upon the evidence adduced at the hearing.
- G. Any student who is expelled shall be offered an alternative educational opportunity consistent with the requirements of state law as set forth in Section VIII of this policy.
- H. Whenever a student is expelled pursuant to the provisions of this policy, notice of the expulsion and the conduct for which the student was expelled shall be included on the student's cumulative educational record. Such notice, except for notice of an expulsion based upon possession of a firearm or deadly weapon, shall be expunged from the cumulative educational record if the student graduates from high school.
- I. Whenever a student against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered, (1) notice of the pending expulsion hearing shall be included on the student's cumulative educational record and (2) the Board of Education shall complete the expulsion hearing and render a decision.
- J. The Board of Education may adopt the decision of a student expulsion hearing conducted by another school district, provided that the Board shall hold a hearing pursuant to this policy which shall be limited to a determination of whether the conduct which was the basis for the expulsion would also warrant expulsion under the policies of the Board of Education. The student shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity in accordance with statutory requirements and this policy.

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V. Expulsion Procedures (continued)

- K. Students requiring special education and related services shall be subject to discipline consistent with state and federal law. Whenever a student requiring special education services is found to have: (1) been in possession of a firearm, deadly weapon, dangerous instrument or martial arts weapon, on school grounds or at school sponsored activity; (2) off school grounds, possessed a fire arm or possessed and used such a fire arm, dangerous instrument, deadly weapon or martial arts weapon in the commission of a crime; or (3) on off school grounds offered for sale or distribution a controlled substance as defined in Connecticut General Statutes §21a-240(9), whose manufacture, distribution, sale, prescription, dispensing, transporting or possessing with intent to sell or dispense, offering or administering is subject to criminal penalties under Sections 21a-277 and 21a-278, said student shall be referred to a planning and placement team (PPT) for a determination of whether the above behavior is a manifestation of the student's disability. If it is determined that the behavior is a manifestation of the student's disability the PPT shall modify the student's individualized educational plan in order to prevent the reoccurrence of such behavior and to ensure the safety of other children in the school.

VI. Notification to Parents or Guardian

The parents or guardian of any minor student against whom disciplinary action is taken under this policy shall be given notice of such disciplinary action within twenty-four (24) hours of the time the student was excluded.

Notice of an expulsion hearing shall be given at least five (5) business days before such hearing to the student and his/her parents or guardians, if said student is less than 18 years of age shall include information concerning the parent's/guardian's and the student's legal rights and concerning legal services that are provided free of charge or at a reduced rate that are available and how to access such services. The notification shall include a statement that an attorney or other advocate may represent any student subject to expulsion proceedings. The parent/guardian of the student shall be notified of the right to have the expulsion hearing postponed for up to one week to allow time to obtain representation, except that if an emergency exists, such hearing shall be held as soon after the expulsion as possible.

VII. Alternative Educational Opportunity

The Board of Education recognizes its obligation to offer any student under the age of sixteen (16) who is expelled an alternative educational opportunity during the period of expulsion. Any parent or guardian of such a student who does not choose to have his or

her child enrolled in an alternative program shall not be subject to the provisions of section 10-184 of the General Statutes. Any expelled student who is between the ages of sixteen (16) and eighteen (18) and who wishes to continue his or her education shall be offered an alternative educational opportunity if he or she complies with conditions established by the Board of Education. Such alternative may include, but shall not be limited to, the placement of such student in a regular classroom program of a school other than the one from which the student has been excluded and, for students at least sixteen (16) years of age, placement in an adult education program. In determining the nature of the alternative educational opportunity to be offered under this section the Board of Education may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension, or expulsion.

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VII. Alternative Educational Opportunity (continued)

State statutes do not require the Board to offer an alternative educational opportunity to a student ~~between the ages of sixteen (16) and eighteen (18) years of age or older, who has been expelled previously or who is expelled because of conduct which endangers persons and it was determined at the expulsion hearing that the conduct for which the student was expelled involved (a) possession on school property or a school-sponsored activity of a firearm, deadly weapon, dangerous instrument, or martial arts weapon or (b) offering for sale or distribution on school property or at a school-sponsored activity a controlled substance as defined in subdivision (9) of C.G.S. §21a-240, whose manufacture, distribution, sale, prescription, dispensing, transporting, or possessing with the intent to sell or dispense, offering, or administration is subject to criminal penalties under C.G.S. §21a-277 and 21a-278.~~ The Board of Education is required to offer such alternative educational opportunity, as defined, to any student between the ages of sixteen and eighteen who is expelled because of conduct which endangers persons, and involved (a) possession on school property or a school-sponsored activity of a firearm, deadly weapon, dangerous instrument, or martial arts weapon or (b) offering for sale or distribution on school property or at a school sponsored activity a controlled substance . If the Board expels a student for the sale or distribution of ~~such~~ a controlled substance the Board shall refer the student to an appropriate state or local agency for rehabilitation, intervention or job training, or any combination thereof, and inform the agency of its action. If the Board expels a student for possession of a firearm, ~~or~~ deadly weapon, the Board shall report the violation to the local police department. The Board shall give the name of the student and a summary of the Board's action in so referring the student, to the Commissioner of Education within thirty (30) days after the student is expelled.

The provisions of this section shall not apply to students requiring special education who are described in subdivision (1) of subsection (e) of Connecticut General Statutes §10-76a.

VIII. Gun Free Schools Act

The Board of Education shall submit to the Commissioner of Education such information on expulsions for the possession of weapons as is required for purposes of the Gun Free Schools Act of 1994, 20 U.S.C. §8921, et. seq.

Legal Reference: Connecticut General Statutes
 4-176e through 4-180a. Contested Cases. Notice. Record, as amended
 10-233a through 10-233f Suspension, removal and expulsion of students,
 as amended by PA 95-304, PA 96-244, PA 98-139, PA 07-66, PA 07-122,

PA 08-160, PA 09-82, PA 09-6 (September Special Session), PA 10-111,
PA 11-126, PA 14-229, PA 15- 96 and PA 16-147.

53a-3 Definitions.

53a-217b Possession of Firearms and Deadly Weapons on School Grounds.

P5114(k)

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Legal Reference: Connecticut General Statutes (continued)

PA 94-221 An Act Concerning School Discipline and Safety.

PA 15- 96 An Act Prohibiting Out-of-School Suspensions and Expulsions
for Students in Preschool and Grades Kindergarten to Two.

GOALS 2000: Educate America Act, Pub. L. 103-227.

18 U.S.C. 921 Definitions.

Title III - Amendments to the Individuals with Disabilities Education Act.
Sec. 314 (Local Control Over Violence)

Elementary and Secondary Act of 1965 as amended by the Gun Free Schools
Act of 1994

P.L. 105-17 The Individuals with Disabilities Act, Amendments of 1997.

Kyle P. Packer PPA Jane Packer v. Thomaston Board of Education.

20 U.S.C. Section 7114, No Child Left Behind Act

P.L. 108-446 The Individuals with Disabilities Education Improvement Act
of 2004

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DERBY PUBLIC SCHOOLS
Derby, Connecticut