



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA  
**School Board Policy Executive Summary**  
 Form D

<b>Policy Number:</b>	Po5610
<b>Title of Policy:</b>	Removal, Out-of-School Suspension, Disciplinary Placement, and Expulsion of Students
<b>Cabinet Member:</b>	Tracy Webley
<b>Purpose of Revisions:</b>	The purpose of the proposed revisions to the policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.
<b>Tentative Schedule:</b>	<ul style="list-style-type: none"> <li>• Cabinet – Discussed</li> <li>• Work Session – <b>3/28/23</b></li> <li>• Rule Development (Public Hearing) – <b>4/11/23</b></li> <li>• School Board Meeting Information – <b>4/11/23</b></li> <li>• School Board Meeting Approval – <b>4/25/23</b></li> <li>• Effective Date – upon approval</li> </ul>
<b>Summary of Proposed Policy Revisions:</b>	<ul style="list-style-type: none"> <li>• These proposed revisions do encompass the suggested language from NEOLA.</li> </ul>
<b>Specific Legal Authority:</b>	<b>F.S. 120.569, F.S. 120.57, F.S. 1002.20, F.S. 1003.02, F.S. 1003.32, F.S. 1006.07, F.S. 1006.08, F.S. 1006.09, F.A.C. Chapter 28-106, 18 U.S.C. Section 921</b>
<b>Next Steps:</b>	<ul style="list-style-type: none"> <li>• Revisions to internal procedures</li> <li>• Training for BPS employees regarding revisions to policy and revised procedures</li> </ul>

**Current  
Version**

## **5610 - REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS**

- A. The School Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, out-of-school suspension, disciplinary placement, or expulsion, is the most severe sanction that can be imposed on a student in this District, and one that cannot be imposed without due process.
- B. No student is to be removed, suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the *Code of Student Conduct* approved by the Board. The handbook shall also specify the procedures to be followed by school officials. In determining whether a student is to be suspended or expelled, District Administrators shall use a preponderance of evidence standard. In addition to the procedural safeguards and definitions set forth in this policy and the *Code of Student Conduct* handbook, the procedures set forth in Policy 5605 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973.
- C. For purposes of this policy and the Superintendent's administrative procedures, the following shall apply:
  - 1. "Emergency removal" shall be the exclusion of a student who poses a continuing danger to District property or persons in the District or whose behavior presents an on-going threat of disrupting the educational process provided by the District.
  - 2. "Suspension", also referred to as "out-of-school suspension", means the temporary removal of a student from all classes of instruction on school grounds and all other school-sponsored activities, except as authorized by the principal or designee, for a period not to exceed ten (10) school days and remanding of the student to the custody of the student's parent or legal guardian.
  - 3. "Serious breach of conduct" includes, but is not limited to, willful disobedience, open defiance of authority of a member of the staff, actual or threatened violence against persons or property, or any other act that substantially disrupts the orderly conduct of the school.
  - 4. "Expulsion" is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  - 5. "Disciplinary Placement" means the involuntary separation of a student from his/her regular school or traditional education setting and benefits attached to such placement to an alternative school/program or disciplinary setting with continued educational services.

### **D. REMOVAL FROM CLASS**

- 1. Referral
  - a. A teacher has the authority to refer a disruptive student to the office. In that circumstance, the Principal, or designee, will provide oral and/or written feedback to the teacher with regard to action taken or proposed to be taken concerning the student's behavior.
- 2. Removal via Teacher Authority Act
  - a. Pursuant to F.S. 1003.32, a teacher may remove a student from his/her class whose behavior the teacher determines interferes with the teacher's ability to effectively communicate with other students in the class or with the ability of the student's classmates to learn.

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- b. The principal, or designee, may not return a student who has been removed by a teacher from the teacher's class without the teacher's consent, unless the Placement Review Committee established herein determines that such placement is the best or only available alternative.
- c. The teacher and the Placement Review Committee must render decisions within five (5) working days of the removal of the student from the classroom.
- d. In accordance with State law, each school shall establish a Placement Review Committee(s) to determine if a student is to be returned to a teacher's class after that student has been removed by the teacher and the teacher has withheld consent for that student to be returned to the teacher's class. Committee membership shall be as set forth in State law. The Placement Review Committee(s) will be selected during preschool planning.
- e. A teacher, who removed a student from his/her class and who has withheld consent for the return of that student to his/her class, shall not serve on the committee when the committee makes its decision regarding the return of the student.

### **E. SUSPENSION FROM SCHOOL OR FROM RIDING SCHOOL BUS**

- 1. When a student's actions are disruptive to himself/herself or to the school as to violate law, Board policies, or school rules, the student may be suspended by the principal, or designee. Suspension dictates that the student shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The principal or designee retains the authority to delay a student suspension if it is deemed in the best academic interest of the student. This authority does not extend to athletic or other non-academic extracurricular events. The principal, or designee, may refer the student during the period of the suspension to in-school suspension or shall remand the student to the custody of his/her parent or legal guardian. Prior to suspending a student, except in emergencies, the principal, or designee, shall make an effort to employ parental assistance or alternative methods of dealing with the student and shall document such efforts.
- 2. In no case shall a teacher suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus.
- 3. A student may not be suspended for unexcused tardiness, lateness, absence, or truancy.
- 4. Prompt notice of a suspension shall be given by telephone to the student's parent or legal guardian, if possible. Formal written notification to the student's parent or legal guardian shall be initiated within twenty-four (24) hours of the time the student is informed of the suspension via US Mail.
- 5. Except in the event of emergencies or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct that is defined as willful disobedience, open defiance of authority of a member of the school staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school, all out-of-school suspensions shall not begin prior to the beginning of the next school day following the infraction unless the parents or legal guardians have been notified.
- 6. Prior to the suspension, the student shall be given an informal and impartial hearing before the principal, or designee, and shall be informed of the charge(s) against him/her which may result in suspension. If the student denies the charge(s), s/he shall be given an explanation of the evidence, and an opportunity to present his/her version of the case, and notification of the action taken by the principal, or designee. In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and removed from the school campus without the necessity of a prior hearing. In such instances, each student shall be afforded an informal hearing before the principal, or designee, prior to the end of the suspension.

7. The Board also authorizes the principal, or designee, to suspend a student from any or all co-curricular or extra-curricular activities for violations of the *Code of Student Conduct*. The length of suspension shall be in accordance with the discipline code.
8. The principal shall determine, in consultation with teachers, when appropriate, whether the student should be given the opportunity to make up school work and course requirements missed while absent due to out-of-school suspension. If this privilege is given, the student shall have a reasonable amount of time up to five (5) school days following suspension to complete the school work missed and shall do so on his/her own initiative.
9. The principal, or designee, may suspend a student from school and/or from riding the school bus for a period not to exceed three (3) school days. With advance approval from the principal, or designee, the student may be suspended for more than three (3) days but not to exceed ten (10) days.
10. If the principal determines that a student's behavior on a school vehicle violates school rules, s/he may suspend the student from school bus-riding privileges for the length of time deemed appropriate for the violation and remediation of the behavior. Any such suspension must comply with due process and the *Code of Student Conduct*.
11. The Board designates the Superintendent as its representative at all hearings regarding the appeal of a suspension. The Board will hear the appeal of an expulsion.
12. When Board action on a recommendation for the expulsion of a student is pending, the Superintendent may extend the suspension assigned by the principal beyond ten (10) school days if such suspension expires before the next regular or special meeting of the Board.
13. In the case of students in exceptional education classes, please refer to the Brevard County Special Programs Policies and Procedures (SP&P) and the *Code of Student Conduct*.
14. The Board authorizes the superintendent to delay the admission of a student who has been suspended by another public or private school for an act that would have been grounds for suspension according to the Board-adopted *Code of Student Conduct* for a period equal to that of the suspension.

**F. WAIVER OF SUSPENSION**

The Superintendent may grant to a principal the approval to waive mandatory suspension policies if the principal has submitted a request for the waiver and has an existing educational alternative program. Students placed on an extended suspension are afforded the opportunity to attend an alternative school/program while waiting for informal/formal hearing.

**G. EXPELLABLE OFFENSES**

1. The Board recognizes that expulsion from the educational program of the schools is the most severe sanction for a student in this District and one that cannot fairly be imposed without due process.
2. Procedures for Expellable Offenses:
  - a. Administrative Hearing:
    - i. Discuss the student's alleged behavior.

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- ii. Give the student an opportunity to make a statement.
    - iii. Review the student's records and complete Manifestation Determination Review or Administrative Hearing Screening Review.
    - iv. Inform the student/parent/legal guardian of their due process right to speak before the Superintendent or designee at the next available meeting of the school board.
  - b. Principal Decision - a principal may recommend to the Superintendent the disciplinary placement or expulsion of a student who has committed a serious breach of conduct. The principal shall provide the Superintendent an adequate history of the student's actions and alternative measures taken relevant to the recommendation for disciplinary placement or expulsion.
  - c. Superintendent Recommendation - Superintendent makes a recommendation for disciplinary placement or expulsion to the Board, written notice shall be given to the student and his/her parent or legal guardian of the recommendation setting forth the charges against the student and advising the student and his/her parent or legal guardian of their right of due process.
  - d. Appeal Process – parent/legal guardian who request an appeal will meet with the Superintendent/designee prior to a board hearing.
  - e. Pre-Hearing Conference - Within 14 days, either party may request a pre-hearing conference with a member of the school board. The purpose of this conference is to determine if the students alleged infraction violates the Student Code of Conduct and is an expellable offense. It should be noted that the school board member acting as chair will not render judgment during this conference.
  - f. Board Hearing - the student and parent/legal guardian will have the opportunity to meet with the Superintendent or designee to challenge the proposed action or to otherwise explain the student's actions.
3. Expulsion is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  4. For students in exceptional student education, please refer to the Brevard County Special Program Policies and Procedures (SP&P).
  5. All students who are recommended for expulsion shall undergo screening to determine if they may be a student with a disability and due the procedural rights and safeguards afforded such students.

## H. EXPULSION HEARING

1. All Expulsion Hearings will be conducted by members of the School Board.
2. All parties will be given reasonable notice of the hearing of not less than fourteen (14) days; however, the fourteen (14) day requirements may be waived by the School Board without the consent of the parties.
3. Failure to timely request a hearing or failure to appear at a hearing after notice of the date and time of the hearing shall be deemed to be a waiver of any hearing on the matter. However, upon presentation of good and sufficient reasons for non-appearance, the presiding officer may direct that the hearing be re-scheduled.
4. Hearings will be conducted in accordance with Florida statutes and the Uniform Rules of Procedure. Reasonable flexibility in method or order of presentation shall be permitted. No parent,

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legal guardian or adult student shall be prohibited from presenting reasonable matters because of insubstantial procedural irregularities. A parent, legal guardian or adult student may be represented at the hearing by an adult, whether as legal counsel or qualified representative. Expulsion hearings are exempt from the public meetings law; however, the parent or legal guardian may elect to have the hearing held as a public meeting.

5. All parties are expected to conduct themselves appropriately. Reasonable decorum is expected at all times and all statements should be directed to the Board. The presiding officer may interrupt, warn or terminate a participant's statement when personally directed, abusive, obscene or irrelevant. Should an individual not observe proper etiquette, the presiding officer may request the individual leave the hearing and the hearing will continue to its conclusion.

### **I. NO DISPUTED ISSUES(S) OF MATERIAL FACT**

If there is no disputed issue of material fact, the parent, legal guardian or adult student, or their counsel, will have the opportunity at the hearing to present written or oral evidence in opposition to the proposed action or a written statement challenging the propriety of the proposed action.

### **J. DISPUTED ISSUE(S) OF MATERIAL FACT**

If there is a disputed issue of material fact, all parties will have an opportunity at the hearing to respond, to present evidence, and argument on all issues involved, to conduct cross-examination.

Findings of fact shall be based on a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

### **K. BOARD ACTION**

At the conclusion of the hearing, or at a later time designated by the Board, the Board will consider all the evidence and argument presented and by majority vote will decide whether to uphold the superintendent's recommendation or to impose a different penalty or no penalty.

### **L. FINAL ORDER**

The Board will enter a written final order, including findings of fact, if any, and conclusions of law separately stated. The final order will include a ruling on each exception, if any, in accordance with Florida statutes.

The final order will be served on all parties.

### **M. APPEAL**

A party may seek judicial review of the final order in accordance with F.S. 120.68.

### **N. APPLICATION REQUIREMENTS FOR EARNED RETURN OF EXPELLED AND/OR STUDENTS WHOSE EXPULSION IS HELD IN ABEYANCE.**

1. Students whose expulsion is held in abeyance, may be eligible for Earned Return. The Earned Return Program requires eligible students to participate in an appropriate educational program and in a counseling/educational program to address the student's expulsion offense. Participation in Earned Return requires written approval of the home school principal and permission of the parent/legal guardian.
2. The following discipline infractions will be offered the opportunity for Earned Return for a student's first offense:

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- Alcohol Possession/Sale/Use/Distribution (ALC)
  - Bus/Transportation Procedure Violation (Major) (OM2)
  - Chronic Misconduct
  - Classroom Disruption - Major
  - Cyberstalking (TR1)
  - Drug Use/Possession, excluding alcohol (DRU)
  - Failure to Report Criminal Offenses
  - Fighting (FIT)
  - Larceny/Theft \$750 or Greater (STL)
  - Network/Internet Misuse – Major
  - Vandalism \$1,000 or Greater (VAN)
3. The Board has zero tolerance for conduct that poses a threat to school safety. The following discipline infractions will not be offered the opportunity for Earned Return:
- Aggravated Battery (BAT)
  - Arson (ARS)
  - Drug Sale/Distribution Excluding Alcohol (DRD)
  - False Accusation Against a Staff Member
  - Homicide (HOM)
  - Kidnapping (KID)
  - Sexual Battery (SXB)
  - Threat/Intimidation (TRE)
  - Weapons Possession (WPO)
4. All other discipline infractions will be evaluated on a case-by-case basis by the Principal and Assistant Superintendent, or designee, to determine if Earned Return will be offered.
5. Students expelled from school and eligible for Earned Return may apply for re-admission in accordance with this rule. Applicants must provide documentation of the following:
- a. The student has made successful progress in a State-approved rehabilitation and/or counseling treatment program or the District's Earned Return program.
  - b. During the expulsion period the student has participated in the District-approved off-site abeyance alternative program or other Board-approved program.
  - c. For drug-related and alcohol offenses, completion of a controlled urine screen will be required immediately prior to application to verify s/he is medically clean of drugs. An additional clean drug screen must be documented within three weeks of returning to their home school. Any student testing positive for drugs may lose their opportunity for Earned Return. Drug/alcohol screening will be conducted by an approved District vendor.
  - d. The parent/legal guardian(s) of a student eligible for earned return must complete a minimum of two family therapy sessions. The classes and the parent/legal guardian's involvement in the process are to be considered by the principal in making a recommendation.
  - e. A student and parent/legal guardian(s) of a student eligible for earned return may apply for return to the regular school program commencing the nine weeks following completion of the requirements for earned return of expelled students.
  - f. If attending and successfully completing a District alternative school/program, the student may return to the regular school program during the same semester.



- g. A student not attending a Brevard Public School alternative learning program can still apply for the Earned Return Program. They shall be eligible to return to school at the beginning of the nine weeks session following final approval of the application. Application can be made in the same semester or term that the expulsion occurs. The application for Earned Return shall be submitted to the principal of the school where the student was last enrolled and expelled. It shall be accompanied by a written conduct agreement between the principal/designee, the student and the parent/legal guardian(s) delineating responsibilities if the student is re-admitted to the regular school program. Such agreement shall outline conditions of the Earned Return and may include provisions such as, use of periodic controlled urine screening, student responsibility for attendance, school performance, discipline procedures, special services, or other provisions. It shall include a provision stating that if a student does not meet the requirements of this contract, the original expulsion order remains effective. If an expulsion order has not been entered by the Board, the student will return to an alternative school/program.
- h. The principal and the Assistant Superintendent shall review the application and approve or disapprove.

**O. OUT-OF-DISTRICT OR STATE MISCONDUCT**

- 1. A student seeking to enroll in a District school who has been expelled for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct* by an in-state or out-of-state public district school board or private school, or lab school may be denied admission to the District's school for a period equal to that of the expulsion.
  - 2. Prior to making a recommendation regarding admission or denial thereof, the Superintendent, or designee, shall offer the student an opportunity for a hearing to review the circumstances of the expulsion and any factors the Superintendent determines to be relevant.
  - 3. The Superintendent may recommend that the Board honor the final order of expulsion from the student's previous district of attendance and deny admission to the student, or that the Board waive the final order of expulsion and admit the student.
  - 4. Acting upon the recommendation of the Superintendent, the Board may deny the admission of a student who has been expelled by any in-state or out-of-state public district school board or private school for a period equal to that of the expulsion for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct*. A final order of expulsion shall be recorded in the records of the District, and the student and his/her parents or legal guardians shall be advised of the final order of expulsion.
  - 5. However, the Board may, with or without the Superintendent's recommendation, waive the expulsion, admit the student, and direct that s/he be placed in an appropriate educational program.
- P. The Superintendent shall develop administrative procedures which provide appropriate procedures for implementing this policy and ensure compliance with applicable statutes.
- Q. A copy of this policy is to be posted in a central location in each school and made available to students and parent/legal guardians upon request. Key provisions of the policy should also be included in the Code of Student Conduct.

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F.S. 1002.20  
F.S. 1003.02  
F.S. 1006.07  
F.S. 1006.09  
F.A.C. 6A-6.03312  
18 U.S.C. Section 921  
20 U.S.C. 8921

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# Neola Template

Book: Florida Policies for Update

Section: Vol. 21, No. 1

Title: REVISED POLICY - VOL. 21, NO. 1 - REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS

Number: po5610

## **REVISED POLICY - VOL. 21, NO. 1**

### **5610 - REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS**

The School Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, suspension, disciplinary placement, or expulsion, is the most severe sanction that can be imposed on a student in this District, and one that cannot fairly be imposed without due process.

No student is to be removed, suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the student/parent handbook approved by the Board. The handbook shall also specify the procedures to be followed by school officials. **In determining whether a student is to be suspended or expelled, District administrators shall use a preponderance of evidence standard.** In addition to the procedural safeguards and definitions set forth in this policy and the student/parent handbook, the procedures set forth in Policy 5605 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973.

For purposes of this policy and the Superintendent's administrative procedures, the following shall apply:

"Suspension", also referred to as "out-of-school suspension", means the temporary removal of a student from all classes of instruction on school grounds and all other school-sponsored activities, except as authorized by the principal, for a period not to exceed ten (10) school days and remanding of the student to the custody of the student's parent, with specific homework assignments to complete.

"Serious breach of conduct" includes, but is not limited to, willful disobedience, open defiance of the authority of a member of the staff, actual or threatened violence against persons or property, or any other act that substantially disrupts the orderly conduct of the school.

"Expulsion" means the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.

"Disciplinary placement" means the involuntary separation of a student from his/her regular school or traditional education setting and benefits attached to such placement to a separate alternative school or disciplinary setting with continued educational services.

## **REMOVAL FROM CLASS**

### Referral

A teacher has the authority to refer a disruptive student to the office. In that circumstance, the Principal will provide oral and/or written feedback to the teacher with regard to action taken or proposed to be taken concerning the student's behavior. Disruptive behavior will include, but not be limited to, the following:

assault on staff or students,

threat(s) or violence,

willful disregard of a teacher's directions, interfering with the class or activity,

malicious vandalism,

possession of weapons of any type,

continuing use of profane language or obscene gestures, and

instigation of violence or mass disobedience to legitimate directions.

The teacher may request a conference with the Principal and the student's parent(s)/guardian(s) prior to the student being returned to his/her classroom. A disruptive student will not normally be returned to the classroom where he/she exhibited the disruptive behavior before such a conference occurs.

### Removal

Pursuant to F.S. 1003.32, a teacher may remove from his/her class a student whose behavior the teacher determines interferes with the teacher's ability to communicate effectively with other students in the class or with the ability of the student's classmates to learn.

The principal may not return a student who has been removed by a teacher to the teacher's class without the teacher's consent unless the Placement Review Committee established herein determines that such placement is the best or only available alternative.

The teacher and the Placement Review Committee must render decisions within five (5) working days of the removal of the student from the classroom.

In accordance with State law, each school shall establish a Placement Review Committee(s) to determine if a student is to be returned to a teacher's class after that student has been removed by the teacher and the teacher has withheld consent for that student to be returned to the teacher's class. Committee membership shall be as set forth in State law. The Placement Review Committee(s) will be selected during preschool planning.

A teacher, who removed a student from his/her class and who has withheld consent for the return of that student to his/her class, shall not serve on the committee when the committee makes its decision regarding the return of the student.

#### **OUT-OF-SCHOOL SUSPENSION FROM SCHOOL OR SUSPENSION FROM RIDING SCHOOL BUS**

When a student's actions are so disruptive to himself/herself or to the school as to violate law, Board policies, or school rules, the student may be suspended by the Principal. A student who is suspended shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The principal or designated representative may refer the student during the period of the suspension to in-school suspension, a center for special counseling or shall remand the student to the custody of his/her parent or guardian.

The principal may suspend a student from school **[OPTION: Select One:]** ( ) for a period not to exceed ten (10) school days **OR** ( ) for a period not to exceed three (3) school days; with advance approval from the

Superintendent, the student may be suspended for more than three (3) days but not to exceed ten (10) days **[END OF OPTION]**. Before suspending a student, except in emergencies or disruptive conditions that require immediate suspension or in the case of a serious breach of conduct, the principal or designee shall make a good faith effort to employ parental assistance or alternative methods of dealing with the student and shall document such efforts.

In no case shall a teacher suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus. A student may not be suspended for unexcused tardiness, lateness, absence, or truancy.

Prior to a suspension, the Principal will hold an informal hearing to give the student oral and written notice of the charges and an explanation of the evidence against him/her. The student will then have an opportunity to explain his/her side of the story. The hearing will be held on the day of the alleged infraction unless it would be impossible or unreasonably difficult to do so.

The Principal will make a good faith effort to contact the student's parent or guardian by telephone immediately after making the decision to suspend.

The Principal will send formal written notice to the student's parent or guardian by U.S. Mail, informing of the length of the suspension and the reasons for it. The Principal will also report each suspension to the Superintendent in writing within twenty-four (24) hours of the time the student is informed of the suspension.

Except in the event of emergencies, all out-of-school suspensions shall begin at the end of the school day of the infraction, unless the parents or guardians have been notified and are able to pick up the student at school. The school will provide homework assignments for the student to complete.

In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and ejected from the school campus without the necessity of a prior hearing. In such instances, each student shall be afforded an informal hearing before the Principal prior to the expiration of the third day of suspension.

A student shall be given the opportunity to make up schoolwork and course requirements missed while absent

due to out-of-school suspension. The student shall have a reasonable amount of time up to five (5) school days following suspension to complete the school work missed and shall do so on his/her own initiative.

When Board action on a recommendation for the expulsion of a student is pending, the superintendent may extend the suspension assigned by the principal beyond ten (10) school days if such suspension expires before the next regular or special meeting of the Board.

In the case of students with disabilities, suspensions shall be pursuant to the procedures outlined in the *Code of Student Conduct*.

### **APPEAL**

The Board designates the Superintendent as it's representative at all hearings regarding the appeal of a suspension.

The notice to the parent will include an explanation of the right of the student or parent to appeal to the ( ) **Superintendent ( ) Board**, the right to be represented at the appeal, and the right to request the hearing be held in executive session if before the Board.

### **DELAYED ADMISSION**

The Board authorizes the superintendent to delay the admission of a student who has been suspended by another public or private school for an act that would have been grounds for suspension according to the Board-adopted *Code of Student Conduct* for a period equal to that of the suspension.

### **WAIVER OF SUSPENSION**

The Superintendent may grant to a principal the approval to waive mandatory suspension policies if the principal has submitted a request for the waiver and has an existing educational alternative program. Students at schools without alternative programs may attend alternative programs at another school with the approval of both principals and area superintendent.



## **School Work Assigned During Out-of-School Suspension**

Credit will be given for work missed due to out-of-school suspension provided the student completes and submits all required assignments upon return to school.

Credit will not be given for work missed due to out-of-school suspension.

## **DISCIPLINARY REASSIGNMENT AND EXPULSION**

The Board recognizes that disciplinary placement and expulsion from the educational program of the schools are the most severe sanctions for a student in this District and that either one cannot fairly be imposed without due process.

A principal may recommend to the Superintendent the disciplinary placement or expulsion of a student who has committed a serious breach of conduct. A recommendation of disciplinary placement or expulsion will include a detailed report on the student's actions and alternative measures taken before the recommendation.

A student and his/her parent or guardian will be given written notice of the principal's recommendation and the reasons therefore and an opportunity to meet with the Superintendent to answer the charges.

The Superintendent, after reviewing the facts and circumstances of the student's misconduct and the principal's recommendation, may accept, reject, or modify the principal's recommendation. The Board will decide on a recommended expulsion of any student and on a recommended disciplinary placement of any student who has been determined to have brought to, or possessed at, school a firearm or weapon, as defined in F.S. Chapter 790, or to have made a threat or false report, as defined by F.S. 790.162 and 790.163.

When the Superintendent makes a recommendation for disciplinary placement or expulsion to the Board, written notice shall be given to the student and his/her parent or guardian of the recommendation setting forth the charges against the student, with a summary of the factual, legal, and policy grounds for the recommendation, and advising the student and his/her parent or guardian of their right of due process, including the right to a hearing.

When making a determination whether or not a student will be expelled or permanently excluded under this policy, the Superintendent shall retain all documents, electronically stored information ("ESI"), and electronic media (as defined in Policy 8315 - Information Management (i.e. "Litigation Hold")) created and/or received as part of an investigation.

The documents, ESI, and electronic media (as defined in Policy 8315) retained may include public records and records exempt from disclosure under Federal (e.g., FERPA, ADA) and/or State law – e.g., student records and confidential medical records.

The documents, ESI, and electronic media (as defined in Policy 8315) shall be retained in accordance with Policy 8310, Policy 8315, Policy 8320, and Policy 8330 for not less than three (3) years, but longer if required by the District's records retention schedule.

All students who are recommended for disciplinary placement or expulsion shall undergo screening to determine if they may be a student with a disability and due the procedural rights and safeguards afforded such students.

A parent or adult student may make a written request for a hearing within ten (10) days from receipt of the Superintendent's notice.

### **Disciplinary Placement and Expulsion Hearings**

The hearing  **will**  **may** be conducted by the entire Board  or by an individual appointed by the Board to serve as presiding officer, who may be  a single Board member  a former school administrator  an attorney appointed by the Board who is a member in good standing of the Florida Bar.

All parties will be given reasonable notice of the hearing of not less than fourteen (14) days; however, the fourteen (14) day requirements may be waived by the  **Board**  **presiding officer** without the consent of the parties.

Failure to timely request a hearing or failure to appear at a hearing after notice of the date and time of the hearing shall be deemed to be a waiver of any hearing on the matter. However, upon presentation of good and

sufficient reasons for non-appearance, the presiding officer may direct that the hearing be re-scheduled.

Hearings will be conducted in accordance with Florida statutes and the Uniform Rules of Procedure. Reasonable flexibility in method or order of presentation shall be permitted. No parent or adult student shall be prohibited from presenting reasonable matters because of insubstantial procedural irregularities. A parent or adult student may be represented at the hearing by an adult, whether as legal counsel or qualified representative. Disciplinary placement and expulsion hearings are exempt from the public meetings law; however, the parent may elect to have the hearing held as a public meeting.

### **No Disputed Issue(s) of Material Fact**

If there is no disputed issue of material fact, the parent or adult student, or their counsel, will have the opportunity at the hearing to present written or oral evidence in opposition to the proposed action or a written statement challenging the propriety of the proposed action.

### **[NOTE: IF A PRESIDING OFFICER IS USED, SELECT THE FOLLOWING OPTION]**

The presiding officer's recommendation for Board action will be served upon the parent or adult student, the student's representative, if any, and the Superintendent.

### **Disputed Issue(s) of Material Fact**

If there is a disputed issue of material fact, all parties will have an opportunity at the hearing to respond, to present evidence, and argument on all issues involved, to conduct cross-examination and submit rebuttal evidence, to submit proposed findings of fact and orders.

### **[NOTE: If using a presiding officer, select the following option.]**

, and to file exceptions to the presiding officer's recommended order.

Findings of fact shall be based on a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

All parties may submit proposed findings of fact, conclusions of law, orders, and memoranda on the issues within a time designated by the ( ) **Board** ( ) **presiding officer**.

**[IF USING A PRESIDING OFFICER, PLEASE SELECT THE FOLLOWING OPTION]**

The presiding officer's findings of fact, conclusions of law, and recommendation for Board action will be set forth in a recommended order served upon the parent or adult student, the student's representative, if any, and the superintendent. Each party shall have fifteen (15) days from receipt to submit written exceptions to the recommended order.

**Board Action**

**[IF THE HEARING IS BEFORE THE BOARD, PLEASE SELECT THE FOLLOWING OPTION]**

At the conclusion of the hearing, or at a later time designated by the Board, the Board will consider all the evidence and argument presented and by majority vote will decide whether to uphold the superintendent's recommendation or to impose a different penalty or no penalty.

**[IF THE HEARING IS BEFORE A PRESIDING OFFICER, PLEASE SELECT THE FOLLOWING OPTION]**

The presiding officer's recommended order will be submitted to the Board for action. The parent, adult student, or representative may appear at the Board meeting and speak to the recommended action. The parent, adult student or representative will be allowed ( ) **ten (10)** ( ) \_\_\_\_\_ minutes to address the Board. The Superintendent's attorney will be allowed ( ) **ten (10)** ( ) \_\_\_\_\_ minutes to respond. No new evidence will be received at the Board meeting.

**Final Order**

The Board will enter a written final order, including findings of fact and conclusions of law separately stated. The final order will include a ruling on each exception filed, if any, in accordance with Florida statutes.

The final order will be served on all parties.

## **Appeal**

A party may seek judicial review of the final order in accordance with F.S. 120.68.

### **[ ] Application Requirements for Earned Return of Expelled and/or Students Whose Expulsion is Held in Abeyance**

Any student who has been expelled for violent behavior (acts of assault, violence, intimidation, or fighting), possession of weapons, or the sale or transfer of alcoholic beverages, narcotics, illegal drugs and/or prohibited substances as defined in Board Policy 5500 (B)(2) shall not be considered eligible for an earned return under this rule.

Students expelled from school and eligible for earned return may apply for re-admission in accordance with this rule. Applicants must provide documentation of the following:

The student has made successful progress in a State-approved rehabilitation and/or counseling treatment program.

During the expulsion period, the student has demonstrated continued academic progress in the District-approved off-site abeyance alternative program or other Board-approved program.

A controlled urine screen immediately prior to application to verify s/he is medically clean of drugs if requested.

The parent(s)/guardian of a student eligible for earned return may complete one or more parenting classes. The classes and the parent/guardian's involvement in the process are to be considered by the principal in making a recommendation.

A student and parent(s) or guardian may apply for return to the regular school program commencing the semester following completion of the requirements for earned return of expelled students. The student shall return to school at the beginning of the semester or summer session following final approval of the application. Application can be made in the same semester or term that the expulsion occurs. The application for earned

return shall be submitted to the principal of the school where the student was last enrolled and expelled. It shall be accompanied by a written conduct agreement between the principal/designee, the student and the parent(s)/guardian delineating responsibilities if the student is re-admitted to the regular school program. Such agreement shall outline conditions of the earned return and may include provisions such as, use of periodic controlled urine screening, student responsibility for attendance, school performance, discipline procedures, special services, or other provisions. It shall include a provision stating that if a student does not meet the requirements of this contract, the original expulsion order remains effective. If a final order of expulsion has not been entered by the Board, the student will return to the off-site abeyance program.

The principal and superintendent shall review the application and approve or disapprove.

If a student is expelled for more than twenty (20) school days or for any period of time that extends into the next school year, the superintendent shall provide the student and his/her parents with the names, addresses, and telephone numbers of those public or private agencies in the community that offer programs or services that help to rectify the student's behaviors and attitudes that contributed to the incident(s) that caused the expulsion.

The superintendent is authorized to establish a training program for parents of students who have been suspended or expelled for violations of the *Code of Student Conduct*. Notification of the time, date, and location of the training program is to be provided with the notice of intent to suspend or expel. If a parent fails to attend or complete the training program, the Superintendent shall report the parent to law enforcement authorities for parent education neglect, a fourth degree misdemeanor if found guilty.

### **Denial of Admission**

A student seeking to enroll in a District school who has been expelled by an in-state or out-of-state public district school board, private school, or lab school for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct* may be denied admission to the District's school for a period equal to that of that expulsion.

Prior to making a recommendation regarding admission or denial thereof, the Superintendent  shall  may offer the student an opportunity for a hearing to review the circumstances of the expulsion and any other factors the Superintendent determines to be relevant.

The Superintendent may recommend that the Board honor the final order of expulsion from the student's previous district of attendance and deny admission to the student, or that the Board waive the final order of expulsion and admit the student.

Acting upon the recommendation of the Superintendent, the Board may deny the admission of a student who has been expelled by any in-state or out-of-state public district school board or private school for a period equal to that of the expulsion for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct*. A final order of expulsion shall be recorded in the records of the District, and the student and his/her parents shall be advised of the final order of expulsion.

However, the Board may, with or without the Superintendent's recommendation, waive the expulsion, admit the student, and direct that s/he be placed in an appropriate educational program.

The Superintendent shall develop administrative procedures to implement this policy and ensure compliance with applicable statutes.

A copy of this policy is to be made accessible to students and parents in the District's online policy manual and shall be provided in hard copy to students and parents upon request. Key provisions of this policy should also be included in the *Code of Student Conduct*.

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#### Legal References

F.S. 120.569

F.S. 120.57

F.S. 1002.20

F.S. 1003.02

F.S. 1003.32

F.S. 1006.07

F.S. 1006.08

F.S. 1006.09

F.A.C. Chapter 28-106

18 U.S.C. Section 921

# Redline Draft



## **5610 - REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS**

- A. The School Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, out-of-school suspension, disciplinary placement, or expulsion, is the most severe sanction that can be imposed on a student in this District, and one that cannot be imposed without due process.
- B. No student is to be removed, suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the *Code of Student Conduct* approved by the Board. The handbook shall also specify the procedures to be followed by school officials. In determining whether a student is to be suspended or expelled, District Administrators shall use a preponderance of evidence standard. In addition to the procedural safeguards and definitions set forth in this policy and the *Code of Student Conduct* handbook, the procedures set forth in Policy 5605 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973.
- C. For purposes of this policy and the Superintendent's administrative procedures, the following shall apply:
1. "Emergency removal" shall be the exclusion of a student who poses a continuing danger to District property or persons in the District or whose behavior presents an on-going threat of disrupting the educational process provided by the District.
  2. "Suspension", also referred to as "out-of-school suspension", means the temporary removal of a student from all classes of instruction on school grounds and all other school-sponsored activities, except as authorized by the principal or designee, for a period not to exceed ten (10) school days and remanding of the student to the custody of the student's parent or legal guardian, with specific homework assignments to complete.
  3. "Serious breach of conduct" includes, but is not limited to, willful disobedience, open defiance of authority of a member of the staff, actual or threatened violence against persons or property, or any other act that substantially disrupts the orderly conduct of the school.
  4. "Expulsion" is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  5. "Disciplinary Placement" means the involuntary separation of a student from his/her regular school or traditional education setting and benefits attached to such placement to an alternative school/program or disciplinary setting with continued educational services.

### **D. REMOVAL FROM CLASS**

1. Referral

a. A teacher has the authority to refer a disruptive student to the office. In that circumstance, the Principal, or designee, will provide oral and/or written feedback to the teacher with regard to action taken or proposed to be taken concerning the student's behavior.

a.b. The teacher may request a conference with the principal and the students' parent(s)/guardian(s) prior to the student being returned to his/her classroom. A disruptive student will not normally be returned to the classroom where he/she exhibited the disruptive behavior before such a conference occurs.

2. Removal via Teacher Authority Act

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- a. Pursuant to F.S. 1003.32, a teacher may remove a student from his/her class whose behavior the teacher determines interferes with the teacher's ability to effectively communicate with other students in the class or with the ability of the student's classmates to learn.
- b. The principal, or designee, may not return a student who has been removed by a teacher from the teacher's class without the teacher's consent, unless the Placement Review Committee established herein determines that such placement is the best or only available alternative.
- c. The teacher and the Placement Review Committee must render decisions within five (5) working days of the removal of the student from the classroom.
- d. In accordance with State law, each school shall establish a Placement Review Committee(s) to determine if a student is to be returned to a teacher's class after that student has been removed by the teacher and the teacher has withheld consent for that student to be returned to the teacher's class. Committee membership shall be as set forth in State law. The Placement Review Committee(s) will be selected during preschool planning.
- e. A ~~teacher, who~~ teacher who removed a student from his/her class and who has withheld consent for the return of that student to his/her class, shall not serve on the committee when the committee makes its decision regarding the return of the student.

#### **E. SUSPENSION FROM SCHOOL OR FROM RIDING SCHOOL BUS**

1. When a student's actions are disruptive to himself/herself or to the school as to violate law, Board policies, or school rules, the student may be suspended by the principal, or designee. Suspension dictates that the student shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The principal or designee retains the authority to delay a student suspension if it is deemed in the best academic interest of the student. This authority does not extend to athletic or other non-academic extracurricular events. The principal, or designee, may refer the student during the period of the suspension to in-school suspension or shall remand the student to the custody of his/her parent or legal guardian. Prior to suspending a student, except in emergencies, the principal, or designee, shall make an effort to employ parental assistance or alternative methods of dealing with the student and shall document such efforts.
2. In no case shall a teacher suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus.
3. A student may not be suspended for unexcused tardiness, lateness, absence, or truancy.
4. Prompt notice of a suspension shall be given by telephone to the student's parent or legal guardian, if possible. Formal written notification to the student's parent or legal guardian shall be initiated within twenty-four (24) hours of the time the student is informed of the suspension via US Mail.
5. Except in the event of emergencies or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct that is defined as willful disobedience, open defiance of authority of a member of the school staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school, all out-of-school suspensions shall not begin prior to the beginning of the next school day following the infraction unless the parents or legal guardians have been notified.
6. Prior to the suspension, the student shall be given an informal and impartial hearing before the principal, or designee, and shall be informed of the charge(s) against him/her which may result in suspension. If the student denies the charge(s), s/he shall be given an explanation of the evidence,

and an opportunity to present his/her version of the case, and notification of the action taken by the principal, or designee. In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and removed from the school campus without the necessity of a prior hearing. In such instances, each student shall be afforded an informal hearing before the principal, or designee, prior to the end of the suspension.

7. The Board also authorizes the principal, or designee, to suspend a student from any or all co-curricular or extra-curricular activities for violations of the *Code of Student Conduct*. The length of suspension shall be in accordance with the discipline code.
8. The principal shall determine, in consultation with teachers, when appropriate, whether the student should be given the opportunity to make up ~~school-works~~schoolwork and course requirements missed while absent due to out-of-school suspension. If this privilege is given, the student shall have a reasonable amount of ~~time~~time, up to five (5) school days following suspension to complete the school work missed and shall do so on his/her own initiative.
9. The principal, or designee, may suspend a student from school and/or from riding the school bus for a period not to exceed three (3) school days. With advance approval from the principal, or designee, the student may be suspended for more than three (3) days but not to exceed ten (10) days.
10. If the principal determines that a student's behavior on a school vehicle violates school rules, s/he may suspend the student from school bus-riding privileges for the length of time deemed appropriate for the violation and remediation of the behavior. Any such suspension must comply with due process and the *Code of Student Conduct*.
11. The Board designates the Superintendent as its representative at all hearings regarding the appeal of a suspension. The Board will hear the appeal of an expulsion.
12. When Board action on a recommendation for the expulsion of a student is pending, the Superintendent may extend the suspension assigned by the principal beyond ten (10) school days if such suspension expires before the next regular or special meeting of the Board.
13. In the case of students in exceptional education classes, please refer to the Brevard County Special Programs Policies and Procedures (SP&P) and the *Code of Student Conduct*.
14. The Board authorizes the superintendent to delay the admission of a student who has been suspended by another public or private school for an act that would have been grounds for suspension according to the Board-adopted *Code of Student Conduct* for a period equal to that of the suspension.

#### **F. WAIVER OF SUSPENSION**

The Superintendent may grant to a principal the approval to waive mandatory suspension policies if the principal has submitted a request for the waiver and has an existing educational alternative program. Students placed on an extended suspension are afforded the opportunity to attend an alternative school/program while waiting for informal/formal hearing.

#### **G. EXPELLABLE OFFENSES**

1. The Board recognizes that expulsion from the educational program of the schools is the most severe sanction for a student in this District and one that cannot fairly be imposed without due process.
2. Procedures for Expellable Offenses:

- a. Administrative Hearing:
    - i. Discuss the student's alleged behavior.
    - ii. Give the student an opportunity to make a statement.
    - iii. Review the student's records and complete Manifestation Determination Review or Administrative Hearing Screening Review.
    - iv. Inform the student/parent/legal guardian of their due process right to speak before the Superintendent or designee at the next available meeting of the school board.
  - b. Principal Decision - a principal may recommend to the Superintendent the disciplinary placement or expulsion of a student who has committed a serious breach of conduct. The principal shall provide the ~~Superintendent~~Superintendent with an adequate history of the student's actions and alternative measures taken relevant to the recommendation for disciplinary placement or expulsion.
  - c. Superintendent Recommendation - Superintendent makes a recommendation for disciplinary placement or expulsion to the Board, written notice shall be given to the student and his/her parent or legal guardian of the recommendation setting forth the charges against the student and advising the student and his/her parent or legal guardian of their right of due process.
  - d. Appeal Process – parent/legal guardian who request an appeal will meet with the Superintendent/designee prior to a board hearing.
  - e. Pre-Hearing Conference - Within 14 days, either party may request a pre-hearing conference with a member of the school board. The purpose of this conference is to determine if the ~~students~~student's alleged infraction violates the Student Code of Conduct and is an expellable offense. It should be noted that the school board member acting as chair will not render judgment during this conference.
  - f. Board Hearing - the student and parent/legal guardian will have the opportunity to meet with the Superintendent or designee to challenge the proposed action or to otherwise explain the student's actions.
3. Expulsion is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  4. For students in exceptional student education, please refer to the Brevard County Special Program Policies and Procedures (SP&P).
  5. All students who are recommended for expulsion shall undergo screening to determine if they may be a student with a disability and due the procedural rights and safeguards afforded such students.

#### H. EXPULSION HEARING

1. All Expulsion Hearings will be conducted by members of the School Board.
2. All parties will be given reasonable notice of the hearing of not less than fourteen (14) days; however, the fourteen (14) day requirements may be waived by the School Board without the consent of the parties.
3. Failure to timely request a hearing or failure to appear at a hearing after notice of the date and time of the hearing shall be deemed to be a waiver of any hearing on the matter. However, upon

presentation of good and sufficient reasons for non-appearance, the presiding officer may direct that the hearing be re-scheduled.

4. Hearings will be conducted in accordance with Florida statutes and the Uniform Rules of Procedure. Reasonable flexibility in method or order of presentation shall be permitted. No parent, legal guardian or adult student shall be prohibited from presenting reasonable matters because of insubstantial procedural irregularities. A parent, legal guardian or adult student may be represented at the hearing by an adult, whether as legal counsel or qualified representative. Expulsion hearings are exempt from the public meetings law; however, the parent or legal guardian may elect to have the hearing held as a public meeting.
5. All parties are expected to conduct themselves appropriately. ~~Reasonable~~A reasonable decorum is expected at all times and all statements should be directed to the Board. The presiding officer may interrupt, ~~warn~~warn or terminate a participant's statement when personally directed, abusive, obscene or irrelevant. Should an individual not observe proper etiquette, the presiding officer may request the individual leave the hearing and the hearing will continue to its conclusion.

**I. NO DISPUTED ISSUES(S) OF MATERIAL FACT**

If there is no disputed issue of material fact, the parent, legal guardian or adult student, or their counsel, will have the opportunity at the hearing to present written or oral evidence in opposition to the proposed action or a written statement challenging the propriety of the proposed action.

**J. DISPUTED ISSUE(S) OF MATERIAL FACT**

If there is a disputed issue of material fact, all parties will have an opportunity at the hearing to respond, to present evidence, and argument on all issues involved, to conduct cross-examination.

Findings of fact shall be based on a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

**K. BOARD ACTION**

At the conclusion of the hearing, or at a later time designated by the Board, the Board will consider all the evidence and argument presented and by majority vote will decide whether to uphold the superintendent's recommendation or to impose a different penalty or no penalty.

**L. FINAL ORDER**

The Board will enter a written final order, including findings of fact, if any, and conclusions of law separately stated. The final order will include a ruling on each exception, if any, in accordance with Florida statutes.

The final order will be served on all parties.

**M. APPEAL**

A party may seek judicial review of the final order in accordance with F.S. 120.68.

**N. APPLICATION REQUIREMENTS FOR EARNED RETURN OF EXPELLED AND/OR STUDENTS WHOSE EXPULSION IS HELD IN ABEYANCE.**

1. Students whose expulsion is held in abeyance, may be eligible for Earned Return. The Earned Return Program requires eligible students to participate in an appropriate educational program and in a counseling/educational program to address the student's expulsion offense. Participation in

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Earned Return requires written approval of the home school principal and permission of the parent/legal guardian.

2. The following discipline infractions will be offered the opportunity for Earned Return for a student's first offense:
  - Alcohol Possession/Sale/~~Use~~/Distribution (ALC)
  - Bus/Transportation Procedure Violation (Major) (OM2)
  - Chronic Misconduct
  - Classroom Disruption - Major
  - Cyberstalking (TR1)
  - Drug Use/Possession, excluding alcohol (DRU)
  - Failure to Report Criminal Offenses
  - Fighting (FIT)
  - ~~Larceny/Theft \$750 or Greater (STL)~~ Grand Theft (STL)
  - Network/Internet Misuse – Major
  - ~~Vandalism \$1,000 or Greater (VAN)~~ Criminal Mischief (VAN)
3. The Board has zero tolerance for conduct that poses a threat to school safety. The following discipline infractions will not be offered the opportunity for Earned Return:
  - Aggravated Battery (BAT)
  - Arson (ARS)
  - Drug Sale/Distribution Excluding Alcohol (DRD)
  - False Accusation Against a Staff Member
  - Homicide (HOM)
  - Kidnapping (KID)
  - Sexual Battery (SXB)
  - Threat/Intimidation (TRE)
  - Weapons Possession (WPO)
4. All other discipline infractions will be evaluated on a case-by-case basis by the Principal and Assistant Superintendent, or designee, to determine if Earned Return will be offered.
5. Students expelled from school and eligible for Earned Return may apply for re-admission in accordance with this rule. Applicants must provide documentation of the following:
  - a. The student has made successful progress in a State-approved rehabilitation and/or counseling treatment program or the District's Earned Return program.
  - b. During the expulsion period the student has participated in the District-approved off-site abeyance alternative program or other Board-approved program.
  - c. For drug-related and alcohol offenses, completion of a controlled urine screen will be required immediately prior to application to verify s/he is medically clean of drugs. An additional clean drug screen must be documented within three weeks of returning to their home school. Any student testing positive for drugs may lose their opportunity for Earned Return. Drug/alcohol screening will be conducted by an approved District vendor.
  - d. The parent/legal guardian(s) of a student eligible for earned return must complete a minimum of two family therapy sessions. The classes and the parent/legal guardian's involvement in the process are to be considered by the principal in making a recommendation.

- e. A student and parent/legal guardian(s) of a student eligible for earned return may apply for return to the regular school program commencing the nine weeks following completion of the requirements for earned return of expelled students.
- f. If attending and successfully completing a District alternative school/program, the student may return to the regular school program during the same semester.
- g. A student not attending a Brevard Public School alternative learning program can still apply for the Earned Return Program. They shall be eligible to return to school at the beginning of the nine weeks session following final approval of the application. Application can be made in the same semester or term that the expulsion occurs. The application for Earned Return shall be submitted to the principal of the school where the student was last enrolled and expelled. It shall be accompanied by a written conduct agreement between the principal/designee, the student and the parent/legal guardian(s) delineating responsibilities if the student is re-admitted to the regular school program. Such agreement shall outline conditions of the Earned Return and may include provisions such as, use of periodic controlled urine screening, student responsibility for attendance, school performance, discipline procedures, special services, or other provisions. It shall include a provision stating that if a student does not meet the requirements of this contract, the original expulsion order remains effective. If an expulsion order has not been entered by the Board, the student will return to an alternative school/program.
- h. The principal and the Assistant Superintendent shall review the application and approve or disapprove.

**O. OUT-OF-DISTRICT OR STATE MISCONDUCT**

- 1. A student seeking to enroll in a District school who has been expelled for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct* by an in-state or out-of-state public district school board or private school, or lab school may be denied admission to the District's school for a period equal to that of the expulsion.
  - 2. Prior to making a recommendation regarding admission or denial thereof, the Superintendent, or designee, shall offer the student an opportunity for a hearing to review the circumstances of the expulsion and any factors the Superintendent determines to be relevant.
  - 3. The Superintendent may recommend that the Board honor the final order of expulsion from the student's previous district of attendance and deny admission to the student, or that the Board waive the final order of expulsion and admit the student.
  - 4. Acting upon the recommendation of the Superintendent, the Board may deny the admission of a student who has been expelled by any in-state or out-of-state public district school board or private school for a period equal to that of the expulsion for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct*. A final order of expulsion shall be recorded in the records of the District, and the student and his/her parents or legal guardians shall be advised of the final order of expulsion.
  - 5. However, the Board may, with or without the Superintendent's recommendation, waive the expulsion, admit the student, and direct that s/he be placed in an appropriate educational program.
- P. The Superintendent shall develop administrative procedures which provide appropriate procedures for implementing this policy and ensure compliance with applicable statutes.

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Q. A copy of this policy is to be posted in a central location in each school and made available to students and parent/legal guardians upon request. Key provisions of the policy should also be included in the Code of Student Conduct.

Revised 4/12/05

Revised 2/28/06

Revised 7/22/14

Revised 7/14/20

Revised 3/3/23

F.S. 1002.20

F.S. 1003.02

F.S. 1006.07

F.S. 1006.09

F.A.C. 6A-6.03312

18 U.S.C. Section 921

20 U.S.C. 8921

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## **5610 - REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS**

- A. The School Board recognizes that exclusion from the educational program of the schools, whether by emergency removal, out-of-school suspension, disciplinary placement, or expulsion, is the most severe sanction that can be imposed on a student in this District, and one that cannot be imposed without due process.
- B. No student is to be removed, suspended, expelled, or excluded from an activity, program, or a school unless his/her behavior represents misconduct as specified in the *Code of Student Conduct* approved by the Board. The handbook shall also specify the procedures to be followed by school officials. In determining whether a student is to be suspended or expelled, District Administrators shall use a preponderance of evidence standard. In addition to the procedural safeguards and definitions set forth in this policy and the *Code of Student Conduct* handbook, the procedures set forth in Policy 5605 shall apply to students identified as disabled under the IDEA and/or Section 504 of the Rehabilitation Act of 1973.
- C. For purposes of this policy and the Superintendent's administrative procedures, the following shall apply:
  - 1. "Emergency removal" shall be the exclusion of a student who poses a continuing danger to District property or persons in the District or whose behavior presents an on-going threat of disrupting the educational process provided by the District.
  - 2. "Suspension", also referred to as "out-of-school suspension", means the temporary removal of a student from all classes of instruction on school grounds and all other school-sponsored activities, except as authorized by the principal or designee, for a period not to exceed ten (10) school days and remanding of the student to the custody of the student's parent or legal guardian, with specific homework assignments to complete.
  - 3. "Serious breach of conduct" includes, but is not limited to, willful disobedience, open defiance of authority of a member of the staff, actual or threatened violence against persons or property, or any other act that substantially disrupts the orderly conduct of the school.
  - 4. "Expulsion" is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  - 5. "Disciplinary Placement" means the involuntary separation of a student from his/her regular school or traditional education setting and benefits attached to such placement to an alternative school/program or disciplinary setting with continued educational services.

### **D. REMOVAL FROM CLASS**

- 1. Referral
  - a. A teacher has the authority to refer a disruptive student to the office. In that circumstance, the Principal, or designee, will provide oral and/or written feedback to the teacher with regard to action taken or proposed to be taken concerning the student's behavior.
  - b. The teacher may request a conference with the principal and the students' parent(s) guardian(s) prior to the student being returned to his/her classroom. A disruptive student will not normally be returned to the classroom where he/she exhibited the disruptive behavior before such a conference occurs.
- 2. Removal via Teacher Authority Act

- a. Pursuant to F.S. 1003.32, a teacher may remove a student from his/her class whose behavior the teacher determines interferes with the teacher's ability to effectively communicate with other students in the class or with the ability of the student's classmates to learn.
- b. The principal, or designee, may not return a student who has been removed by a teacher from the teacher's class without the teacher's consent, unless the Placement Review Committee established herein determines that such placement is the best or only available alternative.
- c. The teacher and the Placement Review Committee must render decisions within five (5) working days of the removal of the student from the classroom.
- d. In accordance with State law, each school shall establish a Placement Review Committee(s) to determine if a student is to be returned to a teacher's class after that student has been removed by the teacher and the teacher has withheld consent for that student to be returned to the teacher's class. Committee membership shall be as set forth in State law. The Placement Review Committee(s) will be selected during preschool planning.
- e. A teacher who removed a student from his/her class and who has withheld consent for the return of that student to his/her class, shall not serve on the committee when the committee makes its decision regarding the return of the student.

**E. SUSPENSION FROM SCHOOL OR FROM RIDING SCHOOL BUS**

1. When a student's actions are disruptive to himself/herself or to the school as to violate law, Board policies, or school rules, the student may be suspended by the principal, or designee. Suspension dictates that the student shall not be allowed to attend his/her regular classes or school-sponsored activities for a prescribed number of days not to exceed ten (10). The principal or designee retains the authority to delay a student suspension if it is deemed in the best academic interest of the student. This authority does not extend to athletic or other non-academic extracurricular events. The principal, or designee, may refer the student during the period of the suspension to in-school suspension or shall remand the student to the custody of his/her parent or legal guardian. Prior to suspending a student, except in emergencies, the principal, or designee, shall make an effort to employ parental assistance or alternative methods of dealing with the student and shall document such efforts.
2. In no case shall a teacher suspend a student from school or class, nor shall a bus driver suspend a student from riding a school bus.
3. A student may not be suspended for unexcused tardiness, lateness, absence, or truancy.
4. Prompt notice of a suspension shall be given by telephone to the student's parent or legal guardian, if possible. Formal written notification to the student's parent or legal guardian shall be initiated within twenty-four (24) hours of the time the student is informed of the suspension via US Mail.
5. Except in the event of emergencies or disruptive conditions which require immediate suspension or in the case of a serious breach of conduct that is defined as willful disobedience, open defiance of authority of a member of the school staff, violence against persons or property, or any other act which substantially disrupts the orderly conduct of the school, all out-of-school suspensions shall not begin prior to the beginning of the next school day following the infraction unless the parents or legal guardians have been notified.
6. Prior to the suspension, the student shall be given an informal and impartial hearing before the principal, or designee, and shall be informed of the charge(s) against him/her which may result in suspension. If the student denies the charge(s), s/he shall be given an explanation of the evidence,

and an opportunity to present his/her version of the case, and notification of the action taken by the principal, or designee. In cases of extremely disruptive or dangerous behavior, persons or groups involved may be immediately suspended and removed from the school campus without the necessity of a prior hearing. In such instances, each student shall be afforded an informal hearing before the principal, or designee, prior to the end of the suspension.

7. The Board also authorizes the principal, or designee, to suspend a student from any or all co-curricular or extra-curricular activities for violations of the *Code of Student Conduct*. The length of suspension shall be in accordance with the discipline code.
8. The principal shall determine, in consultation with teachers, when appropriate, whether the student should be given the opportunity to make up schoolwork and course requirements missed while absent due to out-of-school suspension. If this privilege is given, the student shall have a reasonable amount of time, up to five (5) school days following suspension to complete the school work missed and shall do so on his/her own initiative.
9. The principal, or designee, may suspend a student from school and/or from riding the school bus for a period not to exceed three (3) school days. With advance approval from the principal, or designee, the student may be suspended for more than three (3) days but not to exceed ten (10) days.
10. If the principal determines that a student's behavior on a school vehicle violates school rules, s/he may suspend the student from school bus-riding privileges for the length of time deemed appropriate for the violation and remediation of the behavior. Any such suspension must comply with due process and the *Code of Student Conduct*.
11. The Board designates the Superintendent as its representative at all hearings regarding the appeal of a suspension. The Board will hear the appeal of an expulsion.
12. When Board action on a recommendation for the expulsion of a student is pending, the Superintendent may extend the suspension assigned by the principal beyond ten (10) school days if such suspension expires before the next regular or special meeting of the Board.
13. In the case of students in exceptional education classes, please refer to the Brevard County Special Programs Policies and Procedures (SP&P) and the *Code of Student Conduct*.
14. The Board authorizes the superintendent to delay the admission of a student who has been suspended by another public or private school for an act that would have been grounds for suspension according to the Board-adopted *Code of Student Conduct* for a period equal to that of the suspension.

#### **F. WAIVER OF SUSPENSION**

The Superintendent may grant to a principal the approval to waive mandatory suspension policies if the principal has submitted a request for the waiver and has an existing educational alternative program. Students placed on an extended suspension are afforded the opportunity to attend an alternative school/program while waiting for informal/formal hearing.

#### **G. EXPELLABLE OFFENSES**

1. The Board recognizes that expulsion from the educational program of the schools is the most severe sanction for a student in this District and one that cannot fairly be imposed without due process.
2. Procedures for Expellable Offenses:

- a. Administrative Hearing:
    - i. Discuss the student's alleged behavior.
    - ii. Give the student an opportunity to make a statement.
    - iii. Review the student's records and complete Manifestation Determination Review or Administrative Hearing Screening Review.
    - iv. Inform the student/parent/legal guardian of their due process right to speak before the Superintendent or designee at the next available meeting of the school board.
  - b. Principal Decision - a principal may recommend to the Superintendent the disciplinary placement or expulsion of a student who has committed a serious breach of conduct. The principal shall provide the Superintendent with an adequate history of the student's actions and alternative measures taken relevant to the recommendation for disciplinary placement or expulsion.
  - c. Superintendent Recommendation - Superintendent makes a recommendation for disciplinary placement or expulsion to the Board, written notice shall be given to the student and his/her parent or legal guardian of the recommendation setting forth the charges against the student and advising the student and his/her parent or legal guardian of their right of due process.
  - d. Appeal Process – parent/legal guardian who request an appeal will meet with the Superintendent/designee prior to a board hearing.
  - e. Pre-Hearing Conference - Within 14 days, either party may request a pre-hearing conference with a member of the school board. The purpose of this conference is to determine if the students' alleged infraction violates the Student Code of Conduct and is an expellable offense. It should be noted that the school board member acting as chair will not render judgment during this conference.
  - f. Board Hearing - the student and parent/legal guardian will have the opportunity to meet with the Superintendent or designee to challenge the proposed action or to otherwise explain the student's actions.
3. Expulsion is the removal of the right and obligation of a student to attend a public school for a period of time and under conditions set by the Board not to exceed the remainder of the term or school year and one (1) additional year of attendance.
  4. For students in exceptional student education, please refer to the Brevard County Special Program Policies and Procedures (SP&P).
  5. All students who are recommended for expulsion shall undergo screening to determine if they may be a student with a disability and due the procedural rights and safeguards afforded such students.

#### **H. EXPULSION HEARING**

1. All Expulsion Hearings will be conducted by members of the School Board.
2. All parties will be given reasonable notice of the hearing of not less than fourteen (14) days; however, the fourteen (14) day requirements may be waived by the School Board without the consent of the parties.
3. Failure to timely request a hearing or failure to appear at a hearing after notice of the date and time of the hearing shall be deemed to be a waiver of any hearing on the matter. However, upon

presentation of good and sufficient reasons for non-appearance, the presiding officer may direct that the hearing be re-scheduled.

4. Hearings will be conducted in accordance with Florida statutes and the Uniform Rules of Procedure. Reasonable flexibility in method or order of presentation shall be permitted. No parent, legal guardian or adult student shall be prohibited from presenting reasonable matters because of insubstantial procedural irregularities. A parent, legal guardian or adult student may be represented at the hearing by an adult, whether as legal counsel or qualified representative. Expulsion hearings are exempt from the public meetings law; however, the parent or legal guardian may elect to have the hearing held as a public meeting.
5. All parties are expected to conduct themselves appropriately. A reasonable decorum is expected at all times and all statements should be directed to the Board. The presiding officer may interrupt, warn, or terminate a participant's statement when personally directed, abusive, obscene or irrelevant. Should an individual not observe proper etiquette, the presiding officer may request the individual leave the hearing and the hearing will continue to its conclusion.

**I. NO DISPUTED ISSUES(S) OF MATERIAL FACT**

If there is no disputed issue of material fact, the parent, legal guardian or adult student, or their counsel, will have the opportunity at the hearing to present written or oral evidence in opposition to the proposed action or a written statement challenging the propriety of the proposed action.

**J. DISPUTED ISSUE(S) OF MATERIAL FACT**

If there is a disputed issue of material fact, all parties will have an opportunity at the hearing to respond, to present evidence, and argument on all issues involved, to conduct cross-examination.

Findings of fact shall be based on a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.

**K. BOARD ACTION**

At the conclusion of the hearing, or at a later time designated by the Board, the Board will consider all the evidence and argument presented and by majority vote will decide whether to uphold the superintendent's recommendation or to impose a different penalty or no penalty.

**L. FINAL ORDER**

The Board will enter a written final order, including findings of fact, if any, and conclusions of law separately stated. The final order will include a ruling on each exception, if any, in accordance with Florida statutes.

The final order will be served on all parties.

**M. APPEAL**

A party may seek judicial review of the final order in accordance with F.S. 120.68.

**N. APPLICATION REQUIREMENTS FOR EARNED RETURN OF EXPELLED AND/OR STUDENTS WHOSE EXPULSION IS HELD IN ABEYANCE.**

1. Students whose expulsion is held in abeyance, may be eligible for Earned Return. The Earned Return Program requires eligible students to participate in an appropriate educational program and in a counseling/educational program to address the student's expulsion offense. Participation in

Earned Return requires written approval of the home school principal and permission of the parent/legal guardian.

2. The following discipline infractions will be offered the opportunity for Earned Return for a student's first offense:
  - Alcohol Possession/Sale/Distribution (ALC)
  - Bus/Transportation Procedure Violation (Major) (OM2)
  - Chronic Misconduct
  - Classroom Disruption - Major
  - Cyberstalking (TR1)
  - Drug Use/Possession, excluding alcohol (DRU)
  - Failure to Report Criminal Offenses
  - Fighting (FIT)
  - Grand Theft Greater (STL)
  - Network/Internet Misuse – Major
  - Criminal Mischief (VAN)
  
3. The Board has zero tolerance for conduct that poses a threat to school safety. The following discipline infractions will not be offered the opportunity for Earned Return:
  - Aggravated Battery (BAT)
  - Arson (ARS)
  - Drug Sale/Distribution Excluding Alcohol (DRD)
  - False Accusation Against a Staff Member
  - Homicide (HOM)
  - Kidnapping (KID)
  - Sexual Battery (SXB)
  - Threat/Intimidation (TRE)
  - Weapons Possession (WPO)
  
4. All other discipline infractions will be evaluated on a case-by-case basis by the Principal and Assistant Superintendent, or designee, to determine if Earned Return will be offered.
  
5. Students expelled from school and eligible for Earned Return may apply for re-admission in accordance with this rule. Applicants must provide documentation of the following:
  - a. The student has made successful progress in a State-approved rehabilitation and/or counseling treatment program or the District's Earned Return program.
  - b. During the expulsion period the student has participated in the District-approved off-site abeyance alternative program or other Board-approved program.
  - c. For drug-related and alcohol offenses, completion of a controlled urine screen will be required immediately prior to application to verify s/he is medically clean of drugs. An additional clean drug screen must be documented within three weeks of returning to their home school. Any student testing positive for drugs may lose their opportunity for Earned Return. Drug/alcohol screening will be conducted by an approved District vendor.
  - d. The parent/legal guardian(s) of a student eligible for earned return must complete a minimum of two family therapy sessions. The classes and the parent/legal guardian's involvement in the process are to be considered by the principal in making a recommendation.

- e. A student and parent/legal guardian(s) of a student eligible for earned return may apply for return to the regular school program commencing the nine weeks following completion of the requirements for earned return of expelled students.
- f. If attending and successfully completing a District alternative school/program, the student may return to the regular school program during the same semester.
- g. A student not attending a Brevard Public School alternative learning program can still apply for the Earned Return Program. They shall be eligible to return to school at the beginning of the nine weeks session following final approval of the application. Application can be made in the same semester or term that the expulsion occurs. The application for Earned Return shall be submitted to the principal of the school where the student was last enrolled and expelled. It shall be accompanied by a written conduct agreement between the principal/designee, the student and the parent/legal guardian(s) delineating responsibilities if the student is re-admitted to the regular school program. Such agreement shall outline conditions of the Earned Return and may include provisions such as, use of periodic controlled urine screening, student responsibility for attendance, school performance, discipline procedures, special services, or other provisions. It shall include a provision stating that if a student does not meet the requirements of this contract, the original expulsion order remains effective. If an expulsion order has not been entered by the Board, the student will return to an alternative school/program.
- h. The principal and the Assistant Superintendent shall review the application and approve or disapprove.

**O. OUT-OF-DISTRICT OR STATE MISCONDUCT**

- 1. A student seeking to enroll in a District school who has been expelled for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct* by an in-state or out-of-state public district school board or private school, or lab school may be denied admission to the District's school for a period equal to that of the expulsion.
  - 2. Prior to making a recommendation regarding admission or denial thereof, the Superintendent, or designee, shall offer the student an opportunity for a hearing to review the circumstances of the expulsion and any factors the Superintendent determines to be relevant.
  - 3. The Superintendent may recommend that the Board honor the final order of expulsion from the student's previous district of attendance and deny admission to the student, or that the Board waive the final order of expulsion and admit the student.
  - 4. Acting upon the recommendation of the Superintendent, the Board may deny the admission of a student who has been expelled by any in-state or out-of-state public district school board or private school for a period equal to that of the expulsion for an act that would have been grounds for expulsion according to the Board-adopted *Code of Student Conduct*. A final order of expulsion shall be recorded in the records of the District, and the student and his/her parents or legal guardians shall be advised of the final order of expulsion.
  - 5. However, the Board may, with or without the Superintendent's recommendation, waive the expulsion, admit the student, and direct that s/he be placed in an appropriate educational program.
- P. The Superintendent shall develop administrative procedures which provide appropriate procedures for implementing this policy and ensure compliance with applicable statutes.



CLEAN 3-3-23

Q. A copy of this policy is to be posted in a central location in each school and made available to students and parent/legal guardians upon request. Key provisions of the policy should also be included in the Code of Student Conduct.

Revised 4/12/05  
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Revised 7/14/20  
Revised \_\_\_\_\_

F.S. 1002.20  
F.S. 1003.02  
F.S. 1006.07  
F.S. 1006.09  
F.A.C. 6A-6.03312  
18 U.S.C. Section 921  
20 U.S.C. 8921

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