



Book	Policy Manual
Section	5000 Students
Title	REMOVAL, OUT-OF-SCHOOL SUSPENSION, DISCIPLINARY PLACEMENT, AND EXPULSION OF STUDENTS
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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 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.

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.
- 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 U.S. 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.
 - 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 fourteen (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. 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:
 - a. Alcohol Possession/Sale/Use/Distribution (ALC)
 - b. Bus/Transportation Procedure Violation (Major) (OM2)
 - c. Chronic Misconduct
 - d. Classroom Disruption - Major
 - e. Cyberstalking (TR1)
 - f. Drug Use/Possession, excluding alcohol (DRU)
 - g. Failure to Report Criminal Offenses
 - h. Fighting (FIT)
 - i. Larceny/Theft \$750 or Greater (STL)
 - j. Network/Internet Misuse – Major
 - k. 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:
 - a. Aggravated Battery (BAT)
 - b. Arson (ARS)
 - c. Drug Sale/Distribution Excluding Alcohol (DRD)
 - d. False Accusation Against a Staff Member
 - e. Homicide (HOM)
 - f. Kidnapping (KID)
 - g. Sexual Battery (SXB)
 - h. Threat/Intimidation (TRE)
 - i. 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 (2) 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 or legal guardian(s) of a student eligible for earned return may apply for return to the regular school program commencing the nine (9) 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](#)

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[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](#)