

DUE PROCESS PROCEDURES

- I. When a student is referred to the administration for alleged misconduct, discipline will be imposed in accordance with due process requirements. As a general principle, due process requires that the student be notified of the allegation of misconduct and be given an opportunity to be heard. The specific procedure depends upon the type and length of discipline to be imposed. The specific procedures are set forth in RSA 193:13 and the rules adopted by the New Hampshire Board of Education in Ed. 317. In accordance with those requirements, the following procedures apply.
- II. The Superintendent may designate in writing a building principal or assistant principal with the authority to suspend a student for a period not to exceed ten (10) school days.

The School Board hereby designates the Superintendent and from time-to-time may authorize other representatives in writing to continue a suspension of a pupil for a period of time in excess of ten (10) days as long as the designated person is not the person who suspended the pupil for the first ten (10) school days.

III. Levels of Discipline

- A. Short-term Suspension – A suspension of less than 10 school days shall be considered a short-term suspension and shall be administered by the superintendent or the superintendent’s representative designated in writing;
- B. Long-term Suspension – A suspension for more than ten (10) days shall be administered by the school board or its representative designated in writing, provided that the designee is not the person who suspended the pupil for up to ten days under subparagraph (a) above;
- C. An expulsion by the school board for a period determined in writing by the board under RSA 193:13, II; and
- D. An expulsion by the school board for a period of not less than 12 months under RSA 193:13, III.

IV. Due Process Procedures

- A. In a short-term suspension of a pupil (10 days or less), due process shall include:
1. The superintendent or representative as designated in writing shall inform the pupil of the purpose of the meeting and provide oral or written notice of the charges and an explanation of the evidence against the pupil;
  2. The pupil must be given an opportunity to present his/her side of the story; and
  3. Written statement to the pupil and at least one parent or guardian explaining any disciplinary action taken against the student.

Adopted on September 27, 2006

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- B. In a long-term suspension of a pupil (more than 10 days), due process shall include:
1. Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, or charges and evidence against the pupil;
  2. The superintendent's written or oral recommendation for pupil action to correct the discipline problem;
  3. A full and fair hearing, including the right to be represented by counsel, the right to object and cross examine and introduce evidence, the right to have the proceedings recorded or transcribed, the statutory right of appeal, and compliance with (3)(vi) below;
  4. A written decision which includes the legal and factual basis for the conclusion that the pupil should be suspended;
  5. If the hearing was conducted by the school board's designee, the decision may be appealed to the school board if a written appeal is received by the Superintendent with 10 school days after issuance of the decision being appealed;
  6. If the hearing was held by the school board, the decision may be appealed to the state board.
- C. In an expulsion by the school board, due process shall include the following minimal requirements:
1. A formal hearing shall be held before any expulsion;
  2. Such hearing may be held either before or after the short-term suspension has expired for expulsions under RSA 193:13, but shall be held before the short-term suspension has expired for expulsions under RSA 193:13 III;
  3. If the hearing is held after the expiration of a short-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing;

4. The school board shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time and place for a hearing before the school board;

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5. The written notice required by (iv) above shall include:
  - i. A written statement of the charges and the nature of the evidence against the pupil; and
  - ii. The superintendent's written recommendation for school board action and a description of the process used by the superintendent to reach his/her recommendation;
6. The following hearing procedures shall apply:
  - i. The pupil, together with a parent or guardian may waive the right to a hearing and admit to the charges made by the superintendent;
  - ii. If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship which would prevent the pupil from waiving the right to a hearing;
  - iii. Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or his/her parent or guardian shall have an opportunity to present any defense or reply;
  - iv. The expulsion hearing shall be recorded or transcribed;
  - v. The hearing shall be either public or private and the choice shall be that of the pupil or his parent or guardian; and
  - vi. During the hearing, the pupil, parent, guardian or counsel representing the pupil; shall have the right to examine any and all witnesses;

7. The decision of the school board shall be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is to be imposed and that such acts are, in fact, a proper reason for expulsion;
8. The decision shall state whether the student is expelled and the length of the expulsion. If the decision is to expel the pupil, the decision shall include the legal and factual basis for the decision;

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9. A statement of the time period for which the student is expelled and any action the student may take to be restored by the board; and
10. The decision shall include a statement that the pupil has the right to appeal the decision to the state board of education.

D. All appeals to the state board allowed under RSA 193:13 II or III shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 200.

E. In all cases, appropriate adjustments shall be made to account for the age and grade level of the pupil being disciplined.

#### V. Waivers, Appeal and Review

In accordance with RSA 193:13 the following waiver, appeal and review procedures shall be followed:

- A. In the case of short or long term suspensions, the appeal rights shall be as contained in RSA 193:13, I.
- B. In the case of expulsion pursuant to RSA 193:13, II or III and this policy, written application of readmission may be made to the board through the superintendent's office no later than one month prior to start of each school year. The application shall contain a statement in the pupil's own words explaining why he/she should be considered by readmission. The

application shall be accompanied by at least one recommendation from a member of the community, such as a counselor, minister or employer who has observed the pupil's behavior during the period of expulsion. The application shall also be accompanied by the superintendent's and building administrator's recommendation to the board, which may include conditions for phased readmission.

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