

P5113 SUSPENSION AND/OR EXPULSION OF PUPILS

BOARD POLICY:

The authority to suspend for a short term or to propose an extended term suspension and/or expulsion is delegated to the principal or designee by the Board of Education in accordance with the statutes of the State of Kansas. The provisions of this section apply to all pupils enrolled in Unified School District 259. (K.S.A. 72-6114 et seq.) When considering possible courses of action for disabled pupils in regard to alleged violations of school rules, policies, and regulations, procedural due process rights are guaranteed under IDEA Individuals with Disabilities Education Act, applicable Kansas statutes and regulations. The school district is obligated to see that every disabled pupil is provided an appropriate educational program without cost to the parent. However, pupils who are a danger to themselves or others, either by their own actions or by engaging in weapons or drug offenses, may not be required to be maintained in their current educational placement. For information about the request for school assignments pending a final decision of an extended suspension/expulsion, please see BOE Policy 1472 – *Pupil Makeup Work*. For information about hearings, please see P5115 - *Suspension/Expulsion Hearing Decorum*.

Administrative Implemental Procedures:

1. A short-term suspension means to remove the pupil from school for a maximum time period of ten school days for pupils who brought, handled or transmitted a weapon as defined in K.S.A. 72-6114 to school, on school property or at school activities; traffics, possesses or uses illegal drugs at school, on school property or at school activities; or engages in behavior which, as determined by school administration, presents a danger to him/her self or others.
In all other cases, the short-term suspension remains a maximum of five school days.
2. An Extended Term suspension means to remove the pupil from school for a period not to exceed 90 school days.
3. An Expulsion means to remove the pupil from school for a term not to exceed 186 school days.
4. Disabled pupils, for the purpose of this policy, include those defined as disabled in the Individuals with Disabilities Education Act (IDEA). Pursuant to KAR 91-40-34, identified gifted pupils are not entitled to procedural due process rights under IDEA. Accordingly, gifted pupils who do not have a disability shall be subject to the same discipline as other non-disabled pupils.
5. The principal or designee may suspend or propose to expel a pupil from school for any of the following reasons:
 - a. Willful violation of any published, adopted student conduct regulations.
 - b. Conduct, which substantially disrupts, impedes, or interferes with the operation of any public school.
 - c. Conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property or at a school supervised activity.
 - d. Conduct which, if the pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult.

- e. Conduct at school, on school property, or at a school supervised activity, which, if the pupil is an adult, constitutes the commission of a misdemeanor, or, if the pupil is juvenile, would constitute the commission of a misdemeanor if committed by an adult.
 - f. Disobedience of an order of a teacher, peace officer, school security officer, or any school authority when such disobedience can reasonably be anticipated to result in disorder, disruption, or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.
6. When a principal or designee imposes a short-term suspension upon a pupil, the pupil must be given notice of the charges and must be afforded a hearing thereon. The notice may be oral or written and the hearing may be held immediately. The hearing, though informal, shall include the following procedural due process requirements:
 - a. The right of the pupil to be present
 - b. The right of the pupil to be informed of the charges
 - c. The right of the pupil to be informed of the basis for the accusation
 - d. The right of the pupil to make statements in defense or mitigation of the charges.
 7. A short-term suspension may be imposed upon a pupil forthwith and without affording the pupil or lawful custodian(s) a hearing if the presence of the pupil endangers other persons or property or substantially disrupts, impedes, or interferes with the operation of the school. A written notice of any short-term suspension and the reason shall be given to the pupil involved and to the lawful custodian(s) of the pupil within 24 hours after the suspension has been imposed and, in the event the pupil has not been afforded a hearing prior to any short-term suspension, an informal hearing shall be provided as soon thereafter as practicable but in no event later than 72 hours after such short-term suspension has been imposed. Any notice providing for an informal hearing must state that the pupil's failure to attend the hearing will result in a waiver of the pupil's opportunity for the informal hearing.
 8. The principal or designee shall notify the lawful custodian(s) before a pupil is removed from school and sent home during the school day. If unable to contact the lawful custodian(s), the principal shall either retain the pupil until the end of the school day or, if necessary, request the assistance of the Sedgwick County Juvenile Court through the Wichita Police Department or the Sedgwick County Sheriff's Department.
 9. The principal or designee who imposed the short-term suspension should make reasonable effort to resolve the problem and may, at any time, modify or terminate the suspension.
 10. The principal or designee will place on file in the school office a brief summary of the reasons for imposing a short term suspension and a descriptive statement of any incidents reported or witnessed by a staff member who may have contributed to the decision to suspend. Included in the report will be names of witnesses, time and location of occurrences, specific nature of the offense, and any other information relevant to the case.
 11. A short term suspension need not precede a proposal to impose an extended suspension or an expulsion upon a pupil. If no short-term suspension is imposed, the pupil shall remain in school until a decision is rendered on the recommendation for an extended suspension or expulsion.

12. A written notice of any proposal to suspend for an extended term or to expel and the charges upon which the same is based shall be given to the pupil and to the lawful custodian(s).
 - a. The notice must include the time, date, and place that the pupil will be afforded a formal hearing.
 - b. The failure of the pupil and the pupil's lawful custodian(s) to attend the hearing will result in a waiver of the opportunity for a hearing.
 - c. The hearing shall be held, whenever possible, within five school days after the date of the notice, and shall never be later than ten days after date of notice. The date of notice shall be the date such written notice is mailed or delivered.
 - d. A copy of Board of Education policy Suspension and/or Expulsion of Pupils and appropriate Kansas statutes regarding suspension and expulsion must be attached to the notice of hearing. The formal hearing shall be conducted pursuant to K.S.A. 72-6114 et seq., as amended.
 - e. Notification of an extended term suspension or expulsion should meet the following criteria:

The letter to the pupil and lawful custodian(s) must be sent by registered or certified mail. It will be sufficient notice if the letter is mailed to the address on file at school. In lieu of a written notice, a letter may be delivered in person.

One copy of the letter of notification must be sent to the appropriate assistant superintendent and to the Expulsion Hearing Office.
 - f. The written notice must also include the list of witnesses that will be called to testify at the hearing.
13. (Applies only to disabled special education pupils. Does not apply to gifted special education pupils) Removal from school through an extended term suspension may constitute or lead to a change in placement under the Individual Educational Program (IEP) for the disabled pupil.
 - a. Prior to conducting a long-term suspension/expulsion hearing involving a disabled special education pupil, the pupil's IEP team shall meet to determine whether the pupil's behavior that relates to the basis for the proposed long-term suspension/expulsion is or is not a manifestation of the pupil's disability. A long-term suspension/expulsion hearing shall not be held if the pupil's behavior that relates to the basis for the proposed long-term suspension/expulsion is a manifestation of the pupil's disability.
 - b. Disabled special education pupils who are recommended for potential suspension and/or expulsion shall receive appropriate due process rights in accordance with the IDEA laws and regulations and applicable state statutes and regulations.
 - c. Disabled special education pupils who receive long-term suspension/expulsions shall be provided with a free appropriate public education during such suspension/expulsion, in accordance with IDEA laws and regulations and applicable state statutes and regulations.
14. Whenever a formal hearing is to be held regarding a proposed extended-term suspension or expulsion, the pupil shall be afforded the following procedural due process rights:
 - a. The right of the pupil to have counsel of the pupil's own choice present and to receive the advice of such counsel or other person whom the pupil may select.
 - b. The right of the parents or guardians of the pupil to be present at the hearing.
 - c. The right of the pupil and the pupil's counsel or advisor to hear or read a full report of testimony of witnesses against the pupil.

- d. The right of the pupil and the pupil's counsel to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena.
 - e. The right of the pupil to present the pupil's own witnesses in person or their testimony by affidavit.
 - f. The right of the pupil to testify on the pupil's own behalf and give reasons for the pupil's conduct.
 - g. The right of the pupil to have an orderly hearing.
 - h. The right of the pupil to a fair and impartial decision based on substantial evidence.
15. Whenever a formal hearing is held regarding a proposed extended term suspension or expulsion, the administrator must make principle witnesses available to testify at the hearing. The hearing officer may allow a principle witness to testify by telephone. A principle witness is any witness whose testimony is of major importance in support of the charges upon which a proposed suspension or expulsion from school is based or in determination of material questions of fact. The requirement that principle witnesses attend hearings does not mean that all witnesses having knowledge of the incident in question must attend. A witness of minor importance or a witness whose testimony would be cumulative in nature is not required to be brought to the hearing. The hearing officer may excuse a principle witness from testifying if it is shown that the providing of testimony by the principle witness would place the person in danger.
16. Whenever a hearing results in an extended term suspension or expulsion, the hearing officer will determine whether the pupil in question may or may not return to class pending an appeal or during the period allowed for notice of appeal.
17. A written notice of the results of the hearing shall be given to the pupil involved and to his/her lawful custodian(s) within 24 hours after a determination is reached. If a pupil has attained 18 years of age, a copy shall be sent to the lawful custodian(s) provided a written consent by the pupil has been obtained. A copy shall be forwarded to the Superintendent of Schools and Board of Education members.
18. An appeal made from such a hearing must be filed with the Clerk of the Board not later than ten (10) calendar days after receiving written notice of the hearing findings.
- a. The Clerk of the Board, under normal circumstances, will schedule two Board members for an appeal hearing.
 - b. In order to expedite the scheduling of an appeal hearing, the Clerk may contact the Board President, or in the Board President's absence, the Board Vice-President, for permission to schedule one Board member for the appeal hearing.
 - c. Board members will provide the Clerk with days and times they are typically available for appeal hearings, as well as preferred contact methods.
 - d. The hearing officer's findings letter and the Board appeal hearing recommendation form will be included in the folder that the Board reviews in Executive Session.
19. Any appeal shall be heard by the Board of Education or a hearing officer appointed by the Board, not later than twenty (20) calendar days after such notice of appeal is filed. This formal hearing shall also be conducted pursuant to K.S.A. 72-6114, et seq., as amended.
20. The Board of Education shall render its decision based upon the report of the hearing officer(s) no later than five calendar days after the conclusion of the appeal hearing. Unless

the appeal hearing officers determine otherwise, the appeal hearing will be closed at the end of Executive Session.

21. Pursuant to requirements set forth at K.S.A. 2007 Supp. 72-6115(c) as amended in the 2008 Kansas Legislative Session by SB 470, whenever a student who has attained the age of thirteen (13) years has been found in possession of a weapon or illegal drug at school, upon school property or at a school-supervised activity or has engaged in an act or behavior committed at school or at a school-supervised activity which resulted in, or was substantially likely to have resulted in, serious bodily injury to others, the principal or the principal's designee of the school where such an event occurred shall make a report of the event to the Safety Services Executive Director. The Safety Services Executive Director shall then make a report of the event to the appropriate law enforcement agency. The principal's or designee's report shall be made as soon as practicable, but not to exceed five (5) days from the student's act, excluding holidays and weekends. The Safety Services Executive Director's report shall be made as soon as practicable, but not to exceed ten (10) days from the student's act, excluding holidays and weekends. For the purpose of this AIP 21, "weapon", "illegal drug", and "law enforcement agency" shall have the same meaning as assigned at K.S.A. 2007 Supp. 72-6114(c) as amended in the 2008 Kansas Legislative Session by SB 470. For the purpose of this AIP 21, the Safety Services Executive Director is serving as the Superintendent's designee.

The Board attorney has approved this policy in form and content.

Administrative Responsibility: Student Support Services – Hearing Office

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