

SCOTTSBLUFF PUBLIC SCHOOLS  
Scottsbluff, Nebraska

**STUDENT RIGHTS, EMERGENCY EXCLUSION, SUSPENSION,  
EXPULSION, OR REASSIGNMENT OF STUDENTS**

This Board Policy is adopted to comply with the terms of Neb. Statute 79-268 et seq. Much of its language is abbreviated from the Law. Wherein this Policy does not comply with or is in conflict with said statutes, the provisions of said statutes shall nevertheless govern.

***Board policies, rules and regulations affect students while they are on school district property or on property within the jurisdiction of the school district; while on school owned, operated, or chartered transportation; while attending or engaged in school activities; and while away from school grounds if misconduct will directly affect the good order, efficient management and educational processes of the school district.***

The Board of Education hereby authorizes:

1. emergency exclusion;
2. short-term suspension;
3. long-term suspension;
4. expulsion; or
5. mandatory reassignment

of any pupil from school for conduct prohibited by law or by the Board's rules or standards.

Rules and standards shall be established by school officials, by delegation, and authorization of the Board of Education through handbooks and publications.

Rules and standards which form the basis for the above matters are set forth in the buildings' parent/student handbooks which shall be distributed at least annually at the beginning of each year, and shall be given to new students as they enter school during the term. Handbooks shall be approved by the Board of Education. A copy of this Policy shall be included in the handbooks.

1. **Definitions:** Board policy hereby provides for five types of exclusions:
  - a) **Emergency Exclusion:** Exclusion for an initial period of up to five days for reasons of health, danger to the person, or disruptive conduct.
  - b) **Short-Term Suspension:** Suspension to last from one to five school days.
  - c) **Long-Term Suspension:** Suspension to last from six (6) to twenty (20) school days.
  - d) **Expulsion:** Exclusion from attendance in all schools in the System in accordance with §79-283, R.R.S. 1943.
  - e) **Mandatory Reassignment:** Involuntary transfer of a student to another school within the System in connection with any disciplinary action.
2. **Emergency Exclusion:**

- 1) Any student may be excluded from school for the following circumstances, subject to the procedural provisions of section §79-268 et seq., and if longer than five school days, subject to the provision of subsection (3) of §79-264.
  - a) If the student has a dangerous communicable disease transmissible through normal school contacts and poses an imminent threat to the health and safety of the school community; or
  - b) If the student's conduct presents a clear threat to the physical safety of himself, herself, or others, or is so extremely disruptive as to make temporary removal necessary to preserve the rights of other students to pursue an education.
- 2) An emergency exclusion shall be based upon a clear factual situation warranting it and shall last not longer than is necessary to avoid the dangers described in subsection (1) of this section.
- 3) If the superintendent or his designee determines that such emergency exclusion shall extend beyond five days, the school board shall adopt a procedure for a hearing to be held and a final determination made within ten school days after the initial date of exclusion. Such procedure shall substantially comply with the provisions of section §79-266 to 79-287 and such provisions shall be modified only to the extent necessary to accomplish the hearing and determination within this shorter time period.

The exclusion may last only as long as a clear factual situation warrants it. It may initially last for up to five school days and the following procedure should be followed:

- a) The principal should investigate.
  - b) The student should receive oral or written notice of the charges and the reasons for the exclusion.
  - c) The student should be told the basis of the evidence used to make the decision.
  - d) The student should be given an opportunity to present his/her version of the story.
  - e) Parents should be notified within 24 hours.
  - f) The principal should try to hold a conference with the parents before or at the time the student returns to school.
3. Short-Term Suspension: The principal may suspend a student for as many as five school days for conduct which:
  - a) Constitutes grounds for expulsion under the law.
  - b) Violates the rules of the Board as outlined in the student handbooks.

The following procedure should be followed:

- a) The principal should investigate.
- b) The student should receive oral or written notice of the charges and the reasons for the suspension.

- c) The student should be told the basis of the evidence used to make the decision.
- d) The student should be given an opportunity to present his/her version of the story.
- e) Within 24 hours of such additional time as is reasonably necessary following suspension, a written statement shall be sent to the student and his or her parents or guardian describing the student's conduct, misconduct, or violation of rule and reason for action taken.
- f) The principal should try to hold a conference with the parents before or at the time the student returns to school.
- g) Any student who is suspended pursuant to this Section may be given an opportunity to complete any class work, including but not limited to, examinations missed during the period of suspension pursuant to guidelines established for granting such opportunity to suspended students. These guidelines shall be provided to the student and parent or guardian at the time of suspension.

4. Grounds for Long-Term Suspension, Expulsion or Mandatory Reassignment:

The following conduct constitutes grounds for long-term suspension, expulsion or mandatory reassignment when it occurs on school grounds or during an educational function or event off school grounds.

- a) Use of violence, force, coercion, threat, intimidation, or similar conduct in a manner that constitutes a substantial interference with school purposes.
- b) Willfully causing or attempting to cause substantial damage to property, stealing or attempting to steal property of substantial value, or repeated damage or theft involving property.
- c) Causing or attempting to cause injury to a school employee, any student, or to a school volunteer. Personal injury caused by accident, self-defense, or other action undertaken on the reasonable belief that it was necessary to protect some other person shall not constitute a violation of this subdivision.
- d) Threatening or intimidating any student for the purpose of or with the intent of obtaining money or anything of value from such student.
- e) Knowingly possessing, handling, or transmitting any object or material that is ordinarily or generally considered a weapon.
- f) Engaging in the unlawful possession, selling, dispensing, or use of a controlled substance or an imitation controlled substance as defined in §28-401, a substance represented to be a controlled substance or alcoholic liquor as defined in §53-103 or being under the influence of a controlled substance or alcoholic liquor.
- g) Public indecency, as defined in Section §28-806, except that this subdivision shall apply only to students at least twelve years of age, but less than nineteen years of age.
- h) Sexually assaulting or attempting to sexually assault any person if a complaint has been filed by a prosecutor in a court of competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur on school grounds not at an educational function or event. For purposes of this subsection, sexual assault shall mean sexual assault in the

first degree and sexual assault in the second degree as defined in section §28-319 and section §28-320.

- i) Engaging in any other activity forbidden by the laws of the State of Nebraska, which activity constitutes a danger to other students or interferes with school purposes.
- j) Repeated violation of any rules and standards validly established pursuant to Section §79-262, if such violations constitute a substantial interference with school purposes.

5. Notice of Disciplinary Action (In cases of long-term suspension, expulsion, or mandatory reassignment): The principal or other person who decides to discipline a student must file a written charge and summary of the evidence with the Superintendent of Schools on the date of the decision.

The following procedure shall be followed:

- 1) On the date of the decision, a written charge and a summary of the evidence supporting such charge shall be filed with the superintendent. The school shall, within two school days of the decision, send written notice by registered or certified mail to the student and his or her parent or guardian informing them of the rights established under the Student Discipline Act;
- 2) Such written notice shall include the following:
  - a) The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute a cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student;
  - b) The penalty, if any, which the principal has recommended in the charge, and any other penalty to which the student may be subject;
  - c) A statement that, before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student shall have a right to a hearing, upon request, on the specified charges;
  - d) A description of the hearing procedures provided by the act, along with procedures for appealing any decision rendered at the hearing;
  - e) A statement that the principal, legal counsel for the school, the student, the student's parent, or the student's representative or guardian shall have the right (i) to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and (ii) to know the identity of the witnesses to appear at the hearing and the substances of their testimony; and
  - f) A form (504.01 Form 1) on which the student, the student's parent, or the student's guardian may request a hearing to be signed by such parties and delivered to the principal or superintendent in person or by registered or certified mail as prescribed in section §79-271 and 79-272; and

- 3) When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the superintendent, the student may be suspended by the principal until the date the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested or, if a hearing is requested, the date the hearing action to be taken to the superintendent, if the principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of (a) interference with an educational function or school purpose, or (b) a personal injury to the student himself or herself, other students, school employees, or school volunteers.
6. Settlement Not Precluded: The student, student's parents or guardian may settle the matter with School officials without a hearing prior to having a hearing, and the matter will then be concluded.
7. The Penalty: If a hearing is requested within five days, as provided by the law, the matter shall be handled by a hearing examiner. The hearing examiner's report and recommendations shall be reviewed by the Superintendent of Schools and by the Board, if appealed. The Superintendent and Board may change or reduce the penalty, but may not increase it.
8. The Hearing Examiner: The hearing examiner shall:
  - a) Be any person (including any School employee) who:
    - 1) Has not brought the charges.
    - 2) Will not be a witness.
    - 3) Has no involvement in the charge.
  - b) Be appointed by the Superintendent upon receipt of a written request for a hearing.
  - c) Give written notice, within two days of being appointed, of the time and place of the hearing.
  - d) Set the hearing within five days of the request, but may extend this time period for good cause.
  - e) Not set the hearing on less than two days' actual notice to the parties (without their consent).
  - f) Remain impartial.
  - g) Be available before the hearing to answer questions on the nature and conduct of the hearing.
  - h) Request legal counsel to be present at the hearing if he/she deems it advisable. The hearing examiner may be advised by legal counsel in the conduct of the hearing.
  - i) Exclude the student, if he/she deems it advisable, at times when the student's psychological evaluation or emotional problems are being discussed.
  - j) Be in charge of the hearing and exclude disorderly persons.
  - k) Not be bound by rules of evidence.
  - l) Ask witnesses to testify at the hearing, in his/her discretion.
  - m) Administer an oath to the witnesses.
  - n) Make reasonable efforts to assist in obtaining the presence of witnesses.
  - o) Question any witness, in his/her discretion.

- p) Conduct one hearing for a group of students, when the facts and charges are substantially the same.
  - q) Provide separate hearings when a student's rights are substantially prejudiced by a group hearing.
  - r) File a report of findings and recommendations.
  - s) Limit the findings and recommendations solely to the evidence presented at the hearing.
  - t) Explain the recommendations in terms of the needs of the student and the School Board.
9. The Hearing: If such a hearing is requested within said five school days of the student's receipt of written notice:
- a) The Superintendent shall appoint a hearing examiner.
  - b) Within two school days of being appointed, the hearing examiner shall issue written notice of hearing to be held within five school days of the school's receipt of the request.
  - c) The recommended punishment shall not go into effect. However, a school could exclude a student on an emergency basis or suspend a student for as many as five school days and concurrently initiate procedures for long-term suspension, expulsion or mandatory reassignment.

If a hearing is not requested by the student or the student's parent or guardian within five days following the receipt of written notice, the punishment recommended in the charge by the principal or his or her designee shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or his or her parent or guardian.

If a hearing is requested after five school days of receipt of written notice, but before thirty calendar days, a hearing shall be held and the punishment shall continue in effect pending a final determination.

**Before the Hearing:**

- a) Records and statements of witnesses must be made available for examination.
- b) The principal shall give the hearing examiner statements, in affidavit form, of persons with information about the student's conduct, but not unless these statements have been made available to the student, the student's parents, guardian or representative prior to the hearing.
- c) Witnesses may be asked to attend the hearing by the student, the student's parents, guardian or representative, the principal, or the hearing examiner.

**At the Hearing:**

- a) The proceedings need not be conducted by the rules of evidence.
- b) The hearing examiner will be in charge and may exclude disorderly persons.
- c) The hearing examiner, the student, the student's parents or guardian, the student's representative, if any, and counsel for the Board of Education, if the Board chooses to have counsel present (and the hearing examiner may request the advice of legal counsel) shall attend the hearing.

- d) Legal counsel for the Board may advise the hearing examiner in the conduct of the hearing or act as the principal's designee, but the same person may not serve both functions.
- e) The student may bring a representative and that person may be an attorney.
- f) Witnesses may be questioned by the student, parents, guardian or representative, the principal, the school's legal counsel, or the hearing examiner.
- g) Witnesses shall give testimony under an oath administered by the hearing examiner.
- h) Witnesses shall be present only when giving information.
- i) All persons giving evidence shall have the same immunity as a person testifying in a court case.
- j) The student may be excluded from the hearing, at the discretion of the hearing examiner, when the student's psychological evaluation or emotional problems are being discussed.
- k) Students may be given a group hearing when the facts and charges in each of their situations are substantially the same.
- l) The School District shall record the hearing at its own expense. (A tape recording will suffice).

10. The Decision: The hearing examiner's report:

- a) Will include his/her findings and recommendations for action.
- b) Will explain the recommended action in light of the needs of the student and the School.
- c) Must be based on the evidence at the hearing.
- d) Shall be reviewed by the Superintendent who may change or reduce the penalty, but may not increase it.

The decision of the Superintendent and the findings of the hearing examiner shall be communicated to the student, student's parents or guardian, by mail or personal delivery and will take effect upon delivery.

- a) Except as herein provided, the expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect unless the misconduct occurred (1) within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester, or (2) within ten school days prior to the end of the second semester, in which case the expulsion shall remain in effect for summer school and the first semester of the following school year subject to the provisions of subsection (c) of this section. Such action may be modified or terminated by the school district at any time during the expulsion period.
- b) The expulsion of a student for (1) the knowing and intentional use of force in causing or attempting to cause personal injury to a school employee, school volunteer, or student except as provided in subdivision (3) of section §79,4,180 or (2) the knowing and intentional possession, use, or transmission of a firearm or other dangerous weapon shall be for a period not to exceed the remainder of the school year in which it took effect if the misconduct occurs during the first semester. If the expulsion takes place during the second semester, the expulsion shall remain in effect for summer school and may remain in effect for the first semester of the following school

year. Such action may be modified or terminated by the school district at any time during the expulsion period.

- c) Any expulsion that will remain in effect during the first semester of the following school year shall be automatically scheduled for review before the beginning of the school year. The review shall be conducted by the hearing examiner after the hearing examiner has given notice of the review to the student and the student's parent or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may lead to a recommendation by the hearing examiner that the student be readmitted for the upcoming school year. If the School Board or Board of Education or a committee of such Board took the final action to expel the student, the student may be readmitted only by the action of the Board. Otherwise, the student may be readmitted by action of the superintendent.
- d) A school district that has expelled a student may suspend the enforcement of such expulsion for a period of not more than one full semester in addition to the balance of the semester in which the expulsion takes effect and may, as a condition of such suspended action, assign the student to a school, class, or program which the school district deems appropriate for rehabilitation of the student. Any two or more school boards may join together in providing such schools, classes, or program, and any district may by agreement with another district to send its suspended or expelled students to any school, class, or program, already in operation by such other school. In lieu of other authorized educational programs to which the student may be assigned, such school, class, or program may be offered as a community-centered classroom and may include experiences for the student as an observer or aide in governmental functions, as an on-the-job trainee, and as a participant in specialized tutorial experiences or individually prescribed educational and counseling programs. Such programs shall include an individualized learning program to enable the student to continue academic work for credit toward graduation.
- e) At the conclusion of the designated period, the school district shall (1) reinstate any student who has satisfactorily participated in the school, class, or program to which such student has been assigned and permit the student to return to the school of former attendance or to attend other programs offered by the district or (2) if the student's conduct has been unsatisfactory, enforce the expulsion action.

11. Appeal to the Board of Education: The student, student's parents or guardian may appeal the Superintendent's determination by written request, filed with the Secretary of the Board or the Superintendent, within 7 school days following the receipt of Superintendent's determination.

The appeal shall be made solely on the record of the hearing, except that new evidence may be admitted to avoid substantial threat of unfairness.

The hearing board shall:

- a) Meet on or before the next regularly scheduled meeting of the Board of Education.



- b) Be composed of the Board of Education or a designated committee of the Board, consisting of not less than three members.
- c) Record any new evidence.
- d) Take new evidence, if necessary, to avoid the threat of substantial unfairness.
- e) Withdraw to deliberate privately on the record and any new evidence.
- f) Reopen the hearing to receive new evidence if the Board deems it necessary.
- g) Approve or change the Superintendent's decision, but it shall not approve a more severe sanction.
- h) Notify the student and the student's parents or guardian of the Board's final action by personal delivery or certified mail.

12. Appeal to the District Court: Any aggrieved party may appeal a final decision in a contested case to the district court of the county where the action was taken. The appeal must be filed within 30 days after service of the final decision by the Board of Education.

The record of the case shall consist of:

- a) The charge.
- b) The notice.
- c) The evidence presented.
- d) The hearing examiner's findings and recommendations.
- e) The action of the Superintendent.
- f) Any additional evidence.
- g) Any additional action taken in the case.

Approved: 12/09/02

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Revised: