



Book Neola Policy Templates for Processing

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Title Copy of Revised Policy Volume 11, No. 2 - September 2019 - EXCLUSION FROM CLASSROOM OR SCHOOL BUS, SUSPENSION, AND EXPULSION OF STUDENTS

Code po5610

Status

5610 - EXCLUSION FROM CLASSROOM OR SCHOOL BUS, SUSPENSION, AND EXPULSION OF STUDENTS

The Board of Education recognizes that exclusion from the educational program of the schools, whether by exclusion from a classroom or school bus, out-of-school suspension 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. The Board takes very seriously its role in providing a safe, nurturing and orderly learning environment for its students, free from drugs, violence, harassment, and other disruptive and/or inappropriate behavior. Therefore, the provision of this policy shall be enforced strictly.

No student is to be excluded from a classroom or school bus, suspended out-of-school, or expelled unless his/her behavior represents misconduct as specified in West Virginia Board of Education policy 4373, and/or the Student Code of Conduct approved by the local Board, and/or the West Virginia Safe Schools Act. The Student Code of Conduct shall specify the procedures to be followed by school officials when implementing student discipline. In addition to the procedural safeguards and definitions set forth in this policy and the student/parent handbook, additional procedures and considerations shall apply to students identified as disabled under the IDEA, ADA, and/or Section 504 of the Rehabilitation Act of 1973. (See Policy 5605 - Discipline for Special Education Students)

Students may be subject to discipline for violations of West Virginia Board of Education policy 4373, and/or the Student Code of Conduct approved by the local Board, and/or the West Virginia Safe Schools Act even if that conduct occurs on property not owned or controlled by the Board but where such conduct is materially connected to activities or incidents that have occurred on property owned or controlled by the Board, or conduct that, regardless of where it occurs, is directed at a Board official or employee, or the property of such official or employee.

For purposes of this policy and the Student Code of Conduct, the following shall apply:

- A. "Excluded" shall be the exclusion by a teacher from the classroom or the exclusion by the bus operator from the bus of a student who is guilty of disorderly conduct; interferes with an orderly educational process; threatens, abuses or otherwise intimidates or attempts to intimidate a school employee or a student; willfully disobeys a school employee; or directs abusive or profane language at a school employee.

Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only when the principal, or a designee, provides written certification to the teacher or bus operator that the student may be readmitted and specifies the specific type of disciplinary action, if any, which was taken. If the principal finds that disciplinary action is warranted, s/he shall provide written and, if possible, telephonic notice of the action to the parent, guardian(s) or custodian(s). When a student is excluded from a classroom or a school bus, two (2) times in one (1) semester, and after exhausting all reasonable methods of classroom discipline or bus discipline provided in the school discipline plan or bus discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher or bus operator and, if possible, the parent(s), guardian(s) or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, and agree on a course of action. If the parent, guardian, or custodian are not present at the conference, then the parent, guardian, or custodian must be notified of the course of action. Thereafter, if the student's disruptive behavior in class persists, upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. If a student has been disciplined two (2) times in one (1) semester by a school bus operator, the bus operator shall notify the student and the student's principal. The principal/designee shall notify the student's parent, guardian, or custodian. The student shall be transported until the parent/guardian/custodian have been properly notified of the exclusion. The principal/designee shall notify the parent, guardian, or custodian when the student may resume riding the bus. If the inappropriate behavior persists, the student may have his/her rights to transportation services suspended for the remainder of the year, to the extent feasible.

- B. "Suspension" shall be the temporary exclusion of a student by the principal, assistant principal, or designee of the principal from regular classroom/Instructional program or the school. Suspension may extend beyond the current school year, if at the time a suspension is imposed, fewer than ten (10) days remain in the school year. The principal, assistant principal, or the principal's designee may apply any or all of the period of suspension to the following year. The procedures for suspension are set forth in the Student Code of Conduct and Board Policy 5611 – Discipline - Student Due Process Rights. A suspension of more than ten (10) days requires a formal hearing before the District Board of Education. Procedures the school and District must follow when processing suspensions of more than ten (10) days are outlined in WV Code 18A-5-1 and WV Code 18A-5-1a.

A student may not participate in any school-sponsored activities, or be permitted on school grounds during the period of suspension without the written permission of school officials.

The following offenses require the mandatory suspension of the student by the principal or designee, from school, or from transportation to or from the school on any school bus, after an informal hearing pursuant to subsection (d) of the WV Code 18A-5-1a.

1. Felony

Committing an act or engaging in conduct that would constitute a felony under the laws of this State if committed by an adult; on the premises of an educational facility, at a school-sponsored function, or on a school bus. Such acts that would constitute a felony include, but are not limited to, arson, malicious wounding and unlawful wounding, bomb threat, sexual assault, terrorist act or false information about a terrorist act, hoax terrorist act, burglary, robbery and grand larceny. The principal or designee may request that the Superintendent recommend to the Board that the student be expelled.

2. Possession of Controlled Substance

Unlawfully possessing a controlled substance governed by the Uniform Controlled Substances Act as described in WV Code 60A-1-101 et seq. The principal or designee may request that

the Superintendent recommend to the Board that the student be expelled.

3. Battery

Battery on a school employee. The principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

4. Possession of a Firearm or Deadly Weapon

Possession of a firearm or deadly weapon pursuant to WV Code 18A-5-1a, the principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

5. Sale of a Narcotic Drug

Sale of a narcotic drug pursuant to WV Code 18A-5-1a, the principal or designee, shall, within twenty-four (24) hours, request that the Superintendent recommend to the Board that the student be expelled.

C. Only the Board may expel a student. The procedures for expulsion are set forth in WV Code 18A-5-1, the Student Code of Conduct and Board Policy 5611 – Discipline - Student Due Process Rights.

Upon the recommendation of the principal, the Superintendent may recommend to the Board that a student be expelled for a time period not to exceed one (1) school year if the student:

1. threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel;
2. willfully disobeyed a teacher;
3. possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function;
4. used profane language directed at a school employee or student; intentionally defaced any school property;
5. participated in any physical altercation with another person while under the authority of school personnel;
6. committed an act or engaged in conduct that would constitute a felony under the laws of West Virginia if committed by an adult, such acts that would constitute a felony include, but are not limited to, arson, malicious wounding and unlawful wounding, bomb threat, sexual assault, terrorist act or false information about a terrorist act, hoax terrorist act burglary, robbery, and grand larceny;
7. unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances act as described in WV Code 60A-1-101 et seq.; or
8. habitually violated school rules or policies.

The following offenses require the mandatory recommendation for expulsion of the student by the Superintendent, and if after the Board hearing, a mandatory twelve (12) month calendar month expulsion by the Board if the Board finds that the student did commit the alleged violation:

1. battery of school employee

2. possession of a firearm or deadly weapon

3. sale of a narcotic drug

The Superintendent may lessen the mandatory one (1) year period of expulsion for those offenses above if the circumstances of the student's case demonstrably warrant such a reduction. Upon the reduction of the period of expulsion, the Superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrants the reduction of the period of expulsion. The Superintendent shall submit the statement to the Board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The Superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve (12) month expulsion:

1. the extent of the student's malicious intent;
2. the outcome of the student's misconduct;
3. the student's past behavior history;
4. the likelihood of the student's repeated misconduct; and
5. if applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court.

Expulsion of a Dangerous Student

A "dangerous student" means a student who is substantially likely to cause serious bodily injury to himself/herself or another individual within that student's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the student, and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense. The Board may attempt to establish the student as a "dangerous student" at a hearing to determine the expulsion of the student. In a notice to the parent/guardian, the Board shall state clearly whether the Board will attempt to establish the student as a "dangerous student" and will include any evidence to support its claim in this notice of the hearing date and time.

If the Board did not intend prior to a hearing to assert a dangerous student claim, did not notify the student prior to the hearing that such a determination, would be considered and, if the Board determines through the course of the hearing that the student may be a dangerous student, it shall schedule a second hearing within ten (10) days to decide the issue. The hearing may be postponed for good cause shown by the student, but s/he remains under suspension until after the hearing.

If the Board expels a student, and finds that the student is a dangerous student, it may refuse to provide alternative education. When the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three (3) months after the refusal by the Board to provide alternative education to re-examine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. A hearing for the purpose of re-examining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three (3) months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the Board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearing that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

The Board shall provide for an alternative education for a student that has been expelled from school, except it may refuse an alternative education for a "dangerous" student.

The Superintendent shall initiate expulsion proceedings against a student who has committed an act that warrants expulsion under Board policy even if the student withdraws from school prior to the hearing or decision to impose the expulsion. The expulsion must be imposed for the same duration it would have been had the student remained enrolled.

A student's application may be denied if the student is, at the time of application, expelled from any public or private school in another state or district in West Virginia. This does not apply to a student domiciled in the District.

Nothing in this policy shall be interpreted to violate the Individuals with Disabilities Education Act, The Americans with Disabilities Education Act, or West Virginia Board of Education policy 2419.

West Virginia Board of Education policy 2419, policy 4336, and policy 4373
WV Code 18A-1-1, 18A-5-1a
18 U.S.C. Section 921
20 U.S.C. 3351, 7151, 8921

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