

# Alloway Township Board of Education District Policy Manual

**Students**

**Series 5000**

**Suspension & Expulsion / Pupil Due Process**

**Policy 5114**

**Date Adopted: February 20, 1990    Date Revised: October 22, 2002,  
September 27, 2016**

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## Suspension

The Superintendent of Schools and/or his/her designee shall have the authority to suspend pupils for improper conduct in or on school property in grades 3 through 8, which in his/her judgment is deemed sufficient cause for such action. Students in preschool through second grade will be subject to early detection of behavioral issues and provided prevention programs incorporated into their daily program that may include but not be limited to remediation of problem behaviors, positive reinforcements, supportive interventions, and referral services. Students in grades 3 through 8 shall also be considered for remediation and referral in the event their behaviors warrant such action after review of the circumstances of their suspension.

Pupils under suspension for any length of time are considered in school and shall remain on the enrollment list. The Superintendent or his/her designee, upon review of the districts' Discipline Policy shall determine the length of the suspension and shall also determine when the student may return to the regular classroom.

All cases of suspension shall be reported to the Board of Education, either during or after the fact. Cases of repeated suspension for any cause shall be considered as reason for possible expulsion proceedings by the Board of Education. As prescribed in the district's discipline policy, a pupil may be required to appear before the Board of Education with his/her parents or legal guardian before returning to school.

All cases of recurring violence, insubordination, or disrespect should be referred to the Superintendent/designee.

## Expulsion

The Board of Education alone shall have the authority to expel pupils from school. Expelled pupils are considered out of school and are removed from the enrollment list.

Expulsion from school should be considered as a last resort, to be used only when all other possible means of resolving the problem have been exhausted. The Board of Education may request a recommendation for expulsion from the Superintendent/designee.

Prior to expulsion, prevention programs for behavioral issues will be provided to students and incorporated into their daily program. These programs may include but not be limited to remediation of problem behaviors, positive reinforcements, supportive interventions, and referral services.

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Expulsions shall be immediately reported to Juvenile Authorities.

## Rationale/Background

The Board of Education recognizes the need for every pupil to have a safe and orderly environment in which to learn. Additionally, the Board deems the suspension or expulsion of a pupil to be a very serious penalty that should be imposed only when the pupil has materially and substantially interfered with the maintenance of good order in the school, or when it is necessary to protect the pupil's emotional safety and well-being.

The Board of Education also recognizes that pupils have the right to grieve a suspension or expulsion.

## Causes for Suspension/Expulsion

Any pupil who is guilty of continued and willful disobedience, or of a open defiance of the authority of any teacher or person having authority over him/her, or of the habitual use of profanity or of obscene language, or who shall cut, deface or otherwise injure any school property, shall be liable to punishment and to suspension or expulsion from school (N.J.S.A. 18A:37-2). The following terms are examples of continued and willful disobedience that may result in suspension or expulsion:

- A. Conduct of such character as to constitute a continuing danger to the physical well-being of other pupils;
- B. Physical assault upon another pupil or upon any teacher or other school employee;
- C. Taking, or attempting to take, personal property or money from another pupil, or from his/her presence, by means of force or fear or gambling;
- D. Participation in an unauthorized occupancy by any group of pupils or others of any part of any school or other buildings owned by any school district, and failure to leave such school or other facility promptly after having been directed to do so by the Superintendent/designee or other person then in charge of such building or facility;
- E. Incitement that is intended to and does result in truancy by other pupils, or inciting other pupils' truancy;
- F. Leaving school grounds without permission;
- G. Cutting class, leaving class without permission;
- H. Use or possession of unsafe or illegal articles;
- I. Use of any tobacco product on school property;
- J. Truancy, chronic lateness;
- K. Use, possession or sale of a controlled dangerous substance;

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- L. Turning in a false fire alarm or bomb threat;
- M. Tampering with or damaging property of other pupils or staff members;
- N. Selling or buying lottery tickets or any other gambling paraphernalia on school property;
- O. Actions that constitute a continuing danger to the physical well-being of other pupils or staff members;
- P. Taking part in an unauthorized occupancy of a district facility and refusing to leave promptly when directed to do so by a person in authority;
- Q. Inciting others to take part in an unauthorized occupancy;
- R. Poor attendance and/or lateness;
- S. Use of profanity or abusive language;
- T. Being convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm on any school property, on a school bus or at a school-sponsored function.

Any pupil who commits an assault as defined by NJSA 2C:12-1 upon a board member, teacher, administrator or other employee of the Board of Education shall be suspended from school immediately, according to procedural due process, and suspension or expulsion proceedings shall begin no later than 30 calendar days from the date of the pupil's suspension.

Any pupil who is convicted or adjudicated delinquent for possession of a firearm or a crime while armed with a firearm or found knowingly in possession of a firearm on any school property, or on a school bus, or at a school-sponsored function shall be immediately removed from the school's regular education program for a period of not less than one calendar year. The Superintendent/designee may modify the suspension on a case-by-case basis. Each pupil so removed shall be placed in an alternate educational program or on home instruction and shall be entitled to a hearing before the Board of Education. The hearing shall take place no later than 30 days following the day the pupil is removed from the regular education program and shall be closed to the public.

The Superintendent or his/her designee shall be responsible for the removal of such students and shall also notify the appropriate law enforcement agency of a possible violation of the NJ Code of Criminal Justice. The Superintendent/designee shall determine at the end of the year whether the student is prepared to return to the regular education program, in accordance with the procedures established by the NJ Commissioner of Education.

### Procedure for Suspension/Expulsion for School

Pupils may be suspended by the Superintendent or designee for any of the reasons listed under Causes of Suspension/Expulsion. In cases of suspension, the pupil will have an informal hearing with the Superintendent/designee. This informal hearing shall include:

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- A. Informing the pupil of the charges against him/her;
- B. Providing the pupil an opportunity to reply to the charges against him/her.

In most cases, suspension time begins at the end of the school day on the day that the suspension is issued. However, the administration has the right to suspend a pupil from school immediately when it is determined that waiting until the end of the school day will jeopardize the safety and well-being of other pupils or may disrupt other class activities.

Parents/guardians will be notified of the suspension by telephone (if available in the home) and in writing. In cases that result in suspension from school, a parent/guardian conference with the appropriate building administrator is necessary before the pupil may be permitted to return to regular classes.

The Superintendent/designee must report all suspensions to the Board of Education no later than at the next regular meeting.

## General

Except when special circumstances warrant and at the discretion of the Superintendent/designee, every pupil will be given a written warning in the form of a disciplinary notice that subsequent violations of school regulations may result in his/her exclusion or suspension.

## Effects of Suspension

- A. Short-term suspension (10 days or less). A pupil suspension in excess of (5) days must be authorized by the Superintendent/designee.

The effects of a short-term suspension are listed below:

- 1) Days absent from school which are the result of a suspension will be recorded as excused absences.
- 2) The pupil will be able to make-up any class work, tests, quizzes, projects, homework, etc., missed during the days of suspension without any penalty to his/her grade. It is the responsibility of the pupil or his/her parent or guardian to approach the teacher to receive the missed assignments. The pupil will be allowed a number of days to complete these assignments that is equal to the number of days missed due to the suspension.
- 3) Pupils will be ineligible to participate in any activity, meeting and school event during the suspension.

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- 4) When a pupil with an educational disability is suspended, the Superintendent/designee shall forward, at the time of suspension, a written notification and description of the reason(s) for such action to the parents/guardians with a copy to the Child Study Team.
  - 5) When the suspension of an educationally disabled pupil exceeds a cumulative total of 10 school days in a school year, the Child Study Team shall review the status of that pupil in order to:
    - Determine if the behavior that resulted in the suspension was primarily caused by the pupil's educational disability;
    - Determine if the pupil's individualized education program is appropriate;
    - Prepare and forward to the Superintendent/designee and parents/guardians a written report with recommendations.
  - 6) Where drugs, alcohol, or any other controlled dangerous substance are involved, certification that the pupil is not currently using drugs from a doctor shall be required prior the pupil's return to school.
  - 7) Upon readmission, failure to complete the make up assignments will result in a meeting with the parents/guardians. The Superintendent/designee will notify parents/guardians by telephone and send a letter confirming the telephone conversation immediately.
- B. Long-term suspension (more than 10 days)
- A long-term suspension may be given to a pupil who is involved in an extremely serious offense (e.g. assault, possession or distribution of controlled or dangerous substance, a weapons offense in the school, etc.)
1. Mandatory referral to the district Child Study Team for evaluations (or re-evaluation for a pupil classified as having an educational disability). The purpose of the evaluation is for a determination to be made as to whether the pupil's behavior is primarily caused by his/her educational disability.
  2. Depending on the number of days of suspension, tutoring or home instruction may be provided to the pupil.
  3. Pupils who are under suspension will be required to make up all assignments missed during the period of their suspension and will be given adequate opportunity to make up this work.
  4. Upon readmission, failure to complete the make-up assignments will result in a meeting with the parents/guardians. The Superintendent/designee will notify parents/guardians by telephone and send a letter confirming the telephone conversation immediately.

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When a pupil is placed on administrative probation, the Administrator will notify the parents/guardians by telephone, if possible, and in writing of this action. Should the pupil demonstrate any further behavioral problems that result in suspension, the Administrator will meet with the pupil and parents/guardians to determine the length of the suspension. The Administrator will then notify the parents/guardians in writing that any further disciplinary problems that result in suspension will require a hearing/review by the Superintendent/designee.

The Administrator will notify the Superintendent/designee that the pupil has been placed on administrative probation.

Should the pupil receive any further suspension, the Administrator will notify the Superintendent/designee and forward a "Hearing Summary Report" to his/her office.

The Superintendent/designee will then:

- A. Conduct a pupil/parent/guardian conference
- B. Determine the length of the suspension and determine if the case should be referred to the Board of Education for an expulsion hearing and/or the Child Study Team for evaluation.

## In-school Suspension

The Board of Education directs the Administration to arrange for facilities for in-school suspension whenever possible. Pupils assigned to in-school suspension will be required to occupy themselves with school-related work during such suspensions. No socializing shall be permitted. Pupils shall be counted as present in school but absent (excused) from individual classes.

## Expulsion

A suspension is a temporary removal from school, while an expulsion is a permanent exclusion from school. The Board of Education will consider expulsion only if:

- A. The Superintendent/designee and his/her staff have exhausted all other means of bringing about a correction of repeated misconduct; or
- B. The nature of a single act presents such a clear possibility of danger to others that immediate definitive action is warranted.

The Administrator will follow the procedure explained in B "Long-Term Suspension" of this policy while preparing for an expulsion hearing. In addition, the pupil and his/her parents/guardians will be provided with:

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- A. A written notice containing the date and time of the hearing and a statement of the specific charges that justify expulsion. The pupil will also be informed of his/her right to be represented by an attorney.
- B. A list of witnesses against the pupil and a written report on the facts to which the witnesses will testify.
- C. An opportunity for the pupil to present his/her own defense and to produce witnesses on his/her behalf either by oral testimony or written affidavits.
- D. An opportunity to confront and cross-examine witnesses.

## Appeals to the Superintendent and Board of Education

In order to provide for an orderly process regarding the appeal of pupil disciplinary decisions made by school Administrators, all appeals to the Superintendent and the Board of Education shall be in writing.

Written appeals of pupil disciplinary decisions shall state:

- A. The section of the state law, Board of Education policy, or student discipline code that was violated.
- B. The decision of the Administrator, and when appropriate, of the Superintendent.
- C. The facts and circumstances involved in the disciplinary action.
- D. The reason or reasons why the school Administrator' and/or Superintendent's decision should be changed or reversed.
- E. The remedy or solution sought.

Written appeals shall be submitted to the Superintendent/designee. The Superintendent/designee will review the appeal and pupil disciplinary record. The Superintendent/designee may;

- A. Grant or deny the appeal. The decision will be based on evidence that a state law, Board of Education policy or Student Disciplinary Code was violated.
- B. Make recommendations for the Board of Education to hear or not hear the appeal.

The Superintendent/designee will inform the parents/guardians in writing of his/her decision.

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## Legal References

- NJSA 2C:12-1 Definition of assault  
18A:11-1 General mandatory powers and duties  
18A:37-1 et seq. Discipline of pupils  
18A:40A-1 et seq. Substance abuse
- NJAC 6A:14-2.8 Discipline/suspension/expulsions  
6A:16-1.1 et seq. Programs to Support Student Development  
6A:30-1.1 et seq. Evaluation of the Performance of School Districts  
6A:32-2.1 Definitions  
6A:32-12.2 School-level planning
- 20 U.S.C.A. 1400 et seq. - Section 504 of the Rehabilitation Act of 1973  
P.L. 103-382, Improving America's Schools Act of 1994  
Goss v. Lopez, 419 U.S. 565, 581 (1975)  
Tibbs v. Franklin Township Board of Education, 114 N.J. Super. 287 (App. Div.)  
aff'd 59 NJ 506 (1971)  
R.R. v. Shore Reg. Board of Education, 109 N.J. Super. 337 (Ch. Div. 1970)  
H.A. v. Board of Education Warren Hills Regional, 1976 S.L.D. 336  
82: July 28, C.F. v. Board of Education of the Upper Freehold Regional School  
District  
Honig v. Doe, 484 U.S. 305 (1988)  
Somerset County Educational Services Commission v. North Warren Board of  
Education  
1999 S.L.D. September 7  
State in re G.S. 330 N.J. Super. 383 (Ch. Div. 2000)  
See also Commissioners' Decisions indexed under "Pupils-Punishment of" in Index  
to N.J. School Law Decisions  
A Uniform State Memorandum of Agreement Between Education and Law  
Enforcement Officials

## Possible Cross References

5113, 5124, 5131.5, 5131.7, 6154, 6164.2, 6164.4, 6171.4, 6172, 6173