

## Expulsion

Before administering an expulsion, District personnel must consider other forms of discipline to support the student in meeting behavioral expectations (general guidelines for school environments, school-supported activities and/or those that have a direct causal effect on the school environment). The District must also consider the other general conditions and limitations outlined below.

Unless otherwise required by law, the District is not required to impose expulsion and may impose expulsion only for specify misconduct. In general, the District strives to keep students in school, learning in a safe and appropriate environment. However, in accordance with the other parameters of this policy there are circumstances when the District may determine that expulsion is appropriate for student behaviors listed in RCW 28A.600.015 (6)(a) through (d), which include:

- a. Having a firearm on school property or school transportation in violation of RCW 28A.600.420;
- b. Any of the following offenses listed in RCW 13.04.155, including:
  - any violent offense as defined in RCW 9.94A.030, including
  - any felony that Washington law defines as a class A felony or an attempt, criminal conspiracy, or solicitation to commit a class A felony;
  - manslaughter;
  - indecent liberties committed by forcible compulsion;
  - kidnapping;
  - arson;
  - assault in the second degree;
  - assault of a child in the second degree;
  - robbery;
  - drive-by shooting; and
  - vehicular homicide or vehicular assault caused by driving a vehicle while under the influence of intoxicating liquor or any drug, or by operating a vehicle in a reckless manner.
  - any sex offense as defined in RCW 9.94A.030, which includes any felony violation of chapter 9A.44 RCW (other than failure to registered as a sex offender in violation of 9A.44.132), including rape, rape of a child, child molestation, sexual misconduct with a minor, indecent liberties, voyeurism, and any felony conviction or adjudication with a sexual motivation finding;
  - inhaling toxic fumes in violation of chapter 9.47A RCW;
  - any controlled substance violation of chapter 69.50 RCW;
  - any liquor violation of RCW 66.44.270;

- any weapons violation of chapter 9A.41 RCW, including having a dangerous weapon at school in violation of RCW 9A.41.280;
  - any violation of chapter 9A.36 RCW, including assault, malicious harassment, drive-by shooting, reckless endangerment, promoting a suicide attempt, coercion, assault of a child, custodial assault, and failing to summon assistance for an injured victim of a crime in need of assistance;
  - any violation of chapter 9A.40 RCW, including kidnapping, unlawful imprisonment, custodial interference, luring, and human trafficking;
  - any violation of chapter 9A.46 RCW, including harassment, stalking, and criminal gang intimidation; and
  - any violation of chapter 9A.48 RCW, including arson, reckless burning, malicious mischief, and criminal street gang tagging and graffiti.
- c. Two or more violations of the following within a three-year period, as follows:
- criminal gang intimidation in violation of RCW 9A.46.120;
  - gang activity on school grounds in violation of RCW 28A.600.455;
  - willfully disobeying school administrative personnel in violation of RCW 28A.635.020; and
  - defacing or injuring school property in violation of RCW 28A.635.060; and
- d. Any student behavior that adversely affects the health or safety of other students or educational staff.

In addition to a behavior specified in RCW 28A.600.015, before imposing expulsion, District personnel must also determine that if the student returned to school before completing an expulsion the student would pose an imminent danger to students, school personnel, or pose an imminent threat of material and substantial disruption to the educational process.

### **Initial hearing**

Before administering any expulsion, the District will attempt to notify the student's parent/guardian as soon as reasonably possible regarding the behavioral violation. Additionally, the principal or designee must conduct an informal initial hearing with the student to hear the student's perspective. The principal or designee must make a reasonable attempt to contact the student's parent/guardian and provide an opportunity for the parent/guardian to participate in the initial hearing in person or by telephone. The District must hold the initial hearing in a language the student and parent/guardian understand. At the initial hearing, the principal or designee will provide the student:

- Notice of the student's violation of this policy;
- An explanation of the evidence regarding the behavioral violation;
- An explanation of the discipline that may be administered; and
- An opportunity for the student to share his or her perspective and provide explanation regarding the behavioral violation.

Following the initial hearing, the principal or designee must inform the student of the disciplinary decision regarding the behavioral violation, including the date when any expulsion will begin and end.

### **Notice**

No later than one (1) school business day following the initial hearing with the student, the District will provide written notice of the expulsion to the student and parent/guardian in person, by mail, or by email. If the parent/guardian cannot read any language, the District will provide language assistance. The written notice must include:

- a. A description of the student’s behavior and how the behavior violated this policy;
- b. The duration and conditions of the expulsion, including the dates on which or expulsion will begin and end;
- c. The other forms of discipline that the District considered or attempted, and an explanation of the District’s decision to administer or expulsion;
- d. The opportunity to receive educational services during or expulsion;
- e. The right of the student and parent/guardian to an informal conference with the principal or designee;
- f. The right of the student and parent/guardian to appeal or expulsion; and
- g. For any expulsion, the opportunity for the student and parent/guardian to participate in a reengagement meeting.

Other than for the firearm exception under WAC 392-400-820, the District will not impose an expulsion for any student in kindergarten through fourth grade.

If an expulsion may exceed ten (10) days, the District will consider whether the student is currently eligible or might be deemed eligible for special education services. If so, the principal will notify relevant special education staff of or expulsion so that the District can ensure it follows its special education discipline procedures as well as its general education discipline procedures.

An expulsion may not exceed the length of an academic term, unless the Superintendent grants a petition to extend the expulsion under WAC 392-400-480. The District is not prohibited from administrating an expulsion beyond the school year in which the behavioral violation occurred.

### **Optional Conference with Principal**

If a student and/or the parent/guardian disagree with the District’s decision to expel the student, the student and/or parent/guardian may request an informal conference with the principal or designee to resolve the disagreement. The student and/or parent/guardian may request an informal conference orally or in writing.

The principal or designee must hold the conference within three (3) school business days after receiving the request, unless otherwise agreed to by the student and/or parent/guardian.

During the informal conference, the student and parent/guardian will have the opportunity to share the student's perspective and explanation regarding the events that led to the behavioral violation. The student and parent/guardian will also have the opportunity to confer with the principal or designee and school personnel involved in the incident that led to the expulsion. Further, the student and parent/guardian will have the opportunity to discuss other forms of discipline that the District could administer.

An informal conference will not limit the right of the student and/or parent/guardian to appeal the expulsion, participate in a reengagement meeting, or petition for readmission.

## **Appeals**

### **Requesting appeal**

The appeal provisions for in-school suspension differ from those for expulsion. The appeal provisions for long-term suspension or expulsion and emergency expulsion have similarities but the timelines differ.

A student and/or the parent/guardian may appeal an expulsion to the Superintendent or designee orally or in writing. For an expulsion, the request to appeal must be within five (5) school business days from when the District provided the student and parent/guardian with written notice.

When an appeal for expulsion is pending, the District may continue to administer the expulsion during the appeal process, subject to the following requirements:

- The expulsion is for no more than ten (10) consecutive school days from the initial hearing or until the appeal is decided, whichever is earlier;
- The District will apply any days of expulsion occurring before the appeal is decided to the term of the student's expulsion and may not extend the term of the student's expulsion; and
- If the student returns to school before the appeal is decided, the District will provide the student an opportunity to make up assignments and tests missed during the expulsion upon the student's return.

### **Expulsion appeal**

For an expulsion, the Superintendent or designee will provide the student and parent/guardian written notice in person, by mail, or by email, within one (1) school business day after receiving the appeal request, unless the parties agree to a different timeline. Written notice will include:

- The time, date, and location of the appeal hearing;
- The name(s) of the official(s) presiding over the appeal;
- The right of the student and parent/guardian to inspect the student's education records;

- The right of the student and parent/guardian to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing;
- The rights of the student and parent/guardian to be represented by legal counsel; question witnesses; share the student’s perspective and explanation; and introduce relevant documentary, physical, or testimonial evidence; and
- Whether the District will offer a reengagement meeting before the appeal hearing.

For an expulsion, the student, parent/guardian and District may agree to hold a reengagement meeting and develop a reengagement plan before the appeal hearing. The student, parent/guardian, and District may mutually agree to postpone the appeal hearing while participating in the reengagement process.

### **Hearings**

A hearing to appeal an expulsion is a quasi-judicial process exempt from the Open Public Meetings Act (OPMA). To protect the privacy of student(s) and others involved, the District will hold hearing without public notice and without public access unless the student(s) and/or the parent/guardian or their counsel requests an open hearing. Regardless of whether the hearing is open or closed, the District will make reasonable efforts to comply with the Family Educational Rights and Privacy Act (FERPA) concerning confidentiality of student education records.

When students are charged with violating the same rule and have acted in concert and the facts are essentially the same for all students, a single hearing may be conducted for them if the hearing officer believes that the following conditions exist:

- A single hearing will not likely result in confusion; and
- No student will have his/her interest substantially prejudiced by a group hearing.

If the official presiding over the hearing finds that a student’s interests will be substantially prejudiced by a group hearing, the presiding official may order a separate hearing for that student. The student and/or parent/guardian have the right to petition for an individual hearing.

For an expulsion, the District will hold an appeal hearing within three (3) school business days after the Superintendent or designee received the appeal request, unless otherwise agreed to by the student and parent/guardian.

The school Board has designated a discipline appeal council (DAC) to hear and decide any appeals in this policy and procedure or to review and reconsider a District’s appeal decisions. All members of a discipline appeal council must be knowledgeable about the rules in Chapter 392-400 WAC and this policy and procedure. The school Board may also designate the Superintendent or a hearing officer to hear and decide appeals. The presiding official(s) may not have been involved in the student’s behavioral violation or the decision to suspend or expel the student.

Upon request, the student and parent/guardian or their legal representative may inspect any documentary or physical evidence and list of any witnesses that the District will introduce at the

appeal hearing. The District must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing. The District may also request to inspect any documentary or physical evidence and list of any witnesses that the student and parent/guardian intend to introduce at the appeal hearing. The student and parent/guardian must make this information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

Upon request, the student and parent/guardian may review the student's education records. The District will make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

If a witness for the District cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness' nonappearance if the District establishes that:

- The District made a reasonable effort to produce the witness; and
- The witness' failure to appear is excused by fear of reprisal or another compelling reason.

The District will record the appeal hearing by manual, electronic, or other type of recording device and upon request of the student or parent/guardian provide them a copy of the recording.

For an expulsion, the presiding official(s) must base the decision solely on the evidence presented at the hearing. The presiding official(s) will provide a written decision to the student and parent/guardian in person, by mail, or by email within three (3) school business days after the appeal hearing. The written decision must include:

- The findings of fact;
- A determination whether (i) the student's behavior violated this policy; (ii) the behavioral violation reasonably warrants the expulsion and the length of the expulsion; and (iii) the expulsion is affirmed, reversed, or modified;
- The duration and conditions of the expulsion, including the beginning and ending dates;
- Notice of the right of the student and parent/guardian to request a review and reconsideration of the appeal decision. The notice will include where and to whom to make such a request; and
- Notice of the opportunity for a reengagement meeting and contact information for the person who will schedule it.

### **Reconsideration of appeal**

The student and/or parent/guardian may request the discipline appeal council to review and reconsider the District's appeal decision for expulsions. This request may be either oral or in writing.

For an expulsion, the student and/or parent/guardian may request a review within ten (10) school business days from when the District provided the student and parent/guardian with the written appeal decision.

For an expulsion, the school Board (or discipline appeal council) will provide a written decision to the student and parent/guardian in person, by mail, or by email within ten (10) school business days after receiving the request for review and reconsideration. The written decision must identify:

- Whether the school Board (or discipline appeal council) affirms, reverses, or modifies the expulsion;
- The duration and conditions of the expulsion, including the beginning and ending dates of the expulsion; and
- For expulsions, notice of the opportunity to participate in a reengagement meeting.

**Date: 01.20**