

**Byron Center Public Schools
Board Policy**

Student Discipline – Generally

It is the Board’s policy to provide students and staff with a safe learning environment free from substantial disruption. Consistent with this policy, the District may discipline students who engage in misconduct. Discipline may, but need not, include suspension or expulsion from school.

It is the Board’s policy that students should rarely be suspended or expelled from school and that steps should be taken to minimize occurrences of suspension and expulsion. It is further the Board’s policy to comply with all applicable state and federal laws related to student discipline.

It is the Board’s expectation that this Board Policy, especially those provisions that require consideration of specific factors and the possibility of restorative practices before suspending or expelling a student, will reduce the number of out-of-school suspensions that exceed 10 days and the number of expulsions.

This Board Policy applies to all student conduct that occurs: (1) on school property; (2) at a school-sponsored or school-related event; (3) on the school bus; (4) traveling to or from school, including at a school bus stop; and (5) at any other time or place if the conduct has a direct nexus to the school environment.

Student Code of Conduct

The Board directs the Superintendent to develop and regularly update a student code of conduct. The student code of conduct must: (1) identify offenses that may result in discipline; (2) identify the possible disciplinary consequences for each offense, which may, but need not, include suspension or expulsion; (3) be consistent with Board policy and applicable state and federal laws, including laws requiring mandatory suspension or expulsion; and (4) include a copy of the section of this Board Policy entitled “Suspension from Class, Subject, or Activity by Teacher.”

Definitions

For purposes of this Board Policy:

- “Suspend” or “Suspension” means a disciplinary removal from school for less than 60 school days.
- “Expel” or “Expulsion” means a disciplinary removal from school for 60 or more school days.
- “Restorative practices” means practices that emphasize repairing the harm to the victim and the school community caused by a student’s misconduct.
- Superintendent, or his or her designee (hereinafter “Superintendent”)

Restorative Practices

Before suspending or expelling any student (except a student who possesses a firearm in a weapon-free school zone), teachers, administrators, and the Board or its designee must first determine whether restorative practices would better address the student’s misconduct, recognizing the Board’s policy to minimize out-of-school suspensions and expulsions. Likewise, when suspending or expelling a student, teachers, administrators, and the Board or its designee must consider whether restorative practices should be used in addition to the suspension or expulsion. Restorative practices, which may include a victim-offender conference, should be the first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, and harassment and cyberbullying.

A victim-offender conference is one type of restorative practice. Although not mandatory, a victim-offender conference allows the offender to repair harm caused to the victim through a formal, safe conference that includes the victim, a victim advocate, supporters of the victim, the offender, supporters of the offender, and other relevant

members of the school community. A victim-offender conference must be initiated by the victim and, if the victim is under 15, must be approved by the victim's parent/guardian. The attendees may require the offender to do one or more of the following: (1) apologize; (2) participate in community service, restoration, or counseling; or (3) pay restitution. The selected consequences will be described in a written agreement signed by all attendees and must identify the time frame for the offender to complete the consequences. No person who claims to be the victim of unlawful harassment may be compelled to meet with the alleged perpetrator of the harassment as part of a restorative practice.

Suspension from Class, Subject, or Activity by Teacher

A teacher may suspend a student from any class, subject, or activity for up to one full school day if the teacher has good reason to believe that the student: (1) intentionally disrupted the class, subject, or activity; (2) jeopardized the health or safety of any of the other participants in the class, subject, or activity; or (3) was insubordinate during the class, subject, or activity. Before suspending a student from a class, subject, or activity, a teacher must first determine whether suspension is warranted based on the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

The Board directs any teacher who suspends a student from a class, subject, or activity to immediately report the suspension and the reason for the suspension to the building administrator or designee. If a student is suspended from a class, subject, or activity, but will otherwise remain at school, the Board directs the building administrator or designee to ensure that the student is appropriately supervised during the suspension and, if the student is a student with a disability, that all procedures that apply to students with disabilities are followed.

The Board directs any teacher who suspends a student from a class, subject, or activity to, as soon as possible following the suspension, request that the student's parent/guardian attend a parent-teacher conference to discuss the suspension. The Board directs the building administrator or designee to attend the conference if either the teacher or the parent/guardian requests the attendance of a school administrator. In addition, the Board directs the building administrator to make reasonable efforts to invite a school counselor, school psychologist, or school social worker to attend the conference.

Discretionary Suspension or Expulsion

Under Michigan law, a suspension of 10 or fewer school days is presumed to be reasonable. A suspension of greater than 10 school days, or an expulsion, is, in most circumstances, presumed not to be warranted. Before imposing a suspension of more than 10 school days or an expulsion, District administration or the Board must rebut the presumption (i.e., explain why the suspension or expulsion is warranted despite the presumption) by considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Any time the Superintendent finds that a suspension of more than 10 school days or expulsion is warranted, the Superintendent must explain his or her rationale in writing. The rationale must be based on the above factors.

Before exercising this authority, the Superintendent must provide the student due process as described in the section of this policy entitled “Due Process.” If the student is a student with a disability, the student’s discipline is also subject to the section of this policy entitled “Students with Disabilities.”

Building Administrators – 10 or fewer days

The Board delegates to all building administrators the authority to suspend a student for up to 10 school days for an offense identified in the student code of conduct if the code of conduct states that the offense may result in suspension. The building administrator may also suspend a student pending further investigation and possible further disciplinary consequences, including a longer-term suspension or expulsion. Before exercising this authority, the building administrator must consider all of the following factors:

1. The student’s age;
2. The student’s disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Additionally, before suspending a student for any length of time, the building administrator must provide the student due process as described in the section of this policy entitled “Due Process.” If the student is a student with a disability, the student’s discipline is also subject to the section of this policy entitled “Students with Disabilities.”

Superintendent – Less than 60 days

The Board delegates to the Superintendent the authority to suspend a student for up to 59 school days for an offense identified in the student code of conduct if the code of conduct states that the offense may result in suspension of up to 59 school days. Before exercising this authority, the Superintendent must consider all of the following factors:

1. The student’s age;
2. The student’s disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Any time the Superintendent finds that a suspension of more than 10 school days is warranted, the Superintendent must explain his or her rationale in writing. The Superintendent’s rationale must be based on the above factors.

Additionally, before suspending a student for any length of time, the Superintendent must provide the student due process as described in the section of this policy entitled “Due Process.” If the student is a student with a disability, the student’s discipline is also subject to the section of this policy entitled “Students with Disabilities.”

Superintendent and Board – Expulsion

The Superintendent may recommend that the Board expel a student for an offense identified in the student code of conduct if the code of conduct states that the offense may result in an expulsion. Before exercising this authority, the Board, the Superintendent, must consider all of the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Any time the Superintendent or the Board finds that an expulsion is warranted, the Superintendent or the Board must explain its rationale in writing. The Superintendent's and Board's rationale must be based on the above factors.

Before exercising this authority, the Superintendent and the Board must provide the student due process as described in the section of this policy entitled "Due Process." If the student is a student with a disability, the student's discipline is also subject to the section of this policy entitled "Students with Disabilities."

Mandatory Suspension or Expulsion

It is the policy of the Board to comply with the federal Gun-Free Schools Act and sections 1310, 1311, and 1311a of the Revised School Code. *Nothing in this section of the Board Policy may be construed to limit the Board's discretion to suspend or expel a student for any offense that the student code of conduct identifies as possibly resulting in suspension or expulsion.* The Board directs the Superintendent to refer all incidents that may result in a mandatory suspension or expulsion to the Board. The Board recognizes that, as explained below, in some circumstances it may choose not to suspend or expel a student.

Possession of a Firearm

If a student possesses a firearm in a weapon-free school zone, the student will be permanently expelled unless the student demonstrates, in a clear and convincing manner, at least one of the following:

- The student was not possessing the instrument or object to use as a weapon or to deliver, either directly or indirectly, to another person to use as a weapon;
- The student did not knowingly possess the weapon;
- The student did not know or have reason to know that the instrument or object constituted a "dangerous weapon"; or
- The student possessed the weapon at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

If a student demonstrates one of the above circumstances in a clear and convincing manner and the student has not been previously suspended or expelled from school, the Board will not expel the student unless the Board finds that, based on the circumstances, expulsion is warranted.

Possession of a Dangerous Weapon (Other than a Firearm)

If a student possesses a dangerous weapon in a weapon-free school zone, the Board will consider whether to permanently expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Additionally, the Board is not required to expel a student for possession of a dangerous weapon (other than a firearm) if the student demonstrates, in a clear and convincing manner, at least one of the following:

- The student was not possessing the instrument or object to use as a weapon or to deliver, either directly or indirectly, to another person to use as a weapon;
- The student did not knowingly possess the weapon;
- The student did not know or have reason to know that the instrument or object constituted a “dangerous weapon”; or
- The student possessed the weapon at the suggestion, request, or direction of, or with the express permission of, school or police authorities.

Applicable Definitions for Dangerous Weapon Offense

“Weapon-Free School Zone” means school property and a vehicle used by a school to transport students to or from school property.

“School Property” means a building, playing field, or property used for school purposes to impart instruction to children or used for functions and events sponsored by a school, except a building used primarily for adult education or college extension courses.

“Dangerous weapon” means a firearm, dagger, dirk, stiletto, knife with a blade over 3 inches in length, pocket knife opened by a mechanical device, iron bar, or brass knuckles.

“Firearm” means (1) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (2) the frame or receiver of any such weapon; (3) any firearm muffler or firearm silencer; or (4) any destructive device. “Firearm” does not include an antique firearm.

“Destructive device” means (1) any explosive, incendiary, or poison gas (including a bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device); (2) any type of weapon (other than a shotgun or a shotgun shell that the Attorney General finds is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device and from which a destructive device may be readily assembled.

“Antique firearm” means any firearm (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898; or any replica of any such firearm if the replica: (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition that is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade. “Antique firearm” also means any muzzle loading rifle, muzzle loading shotgun, or muzzle loading pistol, which is designed to use black powder, or a black powder substitute, and which cannot use fixed ammunition. “Antique firearm” does not include any weapon that incorporates a firearm frame or receiver, any firearm which is converted into a muzzle loading weapon, or any muzzle loading weapon which can be readily converted to fire fixed ammunition by replacing the barrel, bolt, breechblock, or any combination thereof.

Additional Procedures for Dangerous Weapon Expulsion

The Board directs the Superintendent to ensure that if a student is expelled for possession of a dangerous weapon, the student’s permanent record reflects the expulsion. The Board directs the Superintendent to refer a student who is expelled for possession of a dangerous weapon to the county department of social services or the county community mental health agency and to notify the student’s parent or legal guardian (or the student if the student is at least age 18 or is an emancipated minor) of the referral within 3 calendar days of the expulsion. The Board

further directs the Superintendent to make a referral to local law enforcement and to contact the student's parent/guardian immediately any time a student is found to have brought a dangerous weapon to school or possessed a dangerous weapon at school, at a school related activity, or en route to or from school in a school vehicle.

Unless reinstated pursuant to section 1311(6) of the Revised School Code, a student expelled by another district for possession of a dangerous weapon may not enroll in the District.

Arson

If a student is convicted of, or pleads guilty or no contest to, committing arson, as defined in section 1311 of the Revised School Code, in a school building or on school grounds, the Board will consider whether to permanently expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Additional Procedures for Arson Expulsion

The Board directs the Superintendent to ensure that if a student is expelled for committing arson, the student's permanent record reflects the expulsion. The Board directs the Superintendent to refer a student who is expelled for committing arson to the county department of social services or the county community mental health agency and to notify the student's parent/guardian (or the student if the student is at least age 18 or is an emancipated minor) of the referral within 3 calendar days of the expulsion.

Unless reinstated pursuant to section 1311(6) of the Revised School Code, a student expelled by another district for committing arson may not enroll in the District.

Criminal Sexual Conduct

If a student is convicted of, or pleads guilty or no contest to, committing criminal sexual conduct, as defined in section 1311 of the Revised School Code, in a school building or on school grounds, the Board will consider whether to permanently expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Additional Procedures for Criminal Sexual Conduct Expulsion

The Board directs the Superintendent to ensure that if a student is expelled for committing criminal sexual conduct, the student's permanent record reflects the expulsion. The Board directs the Superintendent to refer a student who is expelled for committing criminal sexual conduct to the county department of social services or the county community mental health agency and to notify the student's parent/guardian (or the student if the student is at least age 18 or is an emancipated minor) of the referral within 3 calendar days of the expulsion.

Unless reinstated pursuant to section 1311(6) of the Revised School Code, a student expelled by another district for committing criminal sexual conduct may not enroll in the District.

Physical Assault Against Employee, Volunteer, or Contractor

If a student in grade 6 or above commits a physical assault at school against an employee, volunteer, or contractor and the victim reports the physical assault to the Board or to an administrator or, if the victim is unable to report the assault, another person makes the report on the victim's behalf, the Board will consider whether to permanently expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

"Physical assault" means intentionally causing or attempting to cause physical harm to another through force or violence.

Additional Procedures for Physical Assault Against Employee/Volunteer/Contractor Expulsion

The Board directs the Superintendent to ensure that if a student is expelled for physically assaulting an employee, volunteer, or contractor, the student's permanent record reflects the expulsion. The Board directs the Superintendent to refer a student who is expelled for physically assaulting an employee, volunteer, or contractor to the county department of social services or the county community mental health agency and to notify the student's parent/guardian (or the student if the student is at least age 18 or is an emancipated minor) of the referral within 3 calendar days of the expulsion.

Unless reinstated pursuant to section 1311a(5) of the Revised School Code, a student expelled by another district for physically assaulting an employee, volunteer, or contractor may not enroll in the District.

Physical Assault Against Another Student

If a student in grade 6 or above commits a physical assault at school against another student and the physical assault is reported to the Board or to an administrator, the Board will consider whether to suspend or expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

"Physical assault" means intentionally causing or attempting to cause physical harm to another through force or violence.

Additional Procedures for Physical Assault Against Another Student

A resident student in grade 6 or above who was expelled by another school for committing a physical assault against another student may submit a petition to the Board requesting enrollment in the District. The Board will consider the petition, along with any information the Board determines relevant, at its next regularly scheduled

board meeting. The Board may either grant or deny the petition. If the Board denies the petition, the student may not enroll in the District. The Board's decision is final.

Bomb Threat or Similar Threat

If a student in grade 6 or above makes a bomb threat or similar threat directed at a school building, other school property, or a school-related event, the Board or its designee will consider whether to suspend or expel the student or to impose a less severe penalty after first considering the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

Additional Procedures for Bomb Threat or Similar Threat

A resident student in grade 6 or above who was expelled by another school district for making a bomb threat or similar threat may submit a petition to the Board requesting enrollment in the District. The Board will consider the petition, along with any information the Board determines relevant, at its next regularly scheduled board meeting. The Board may either grant or deny the petition. If the Board denies the petition, the student may not enroll in the District. The Board's decision is final.

Reinstatement Following Suspension or Expulsion

It is the policy of the Board to consider a petition for reinstatement from an expelled student and the parent/guardian and to follow the requirements of sections 1311 and 1311a of the Revised School Code.

Reinstatement Following Mandatory Permanent Expulsion

The parent/guardian (or the student if emancipated or at least 18 years old) of a student who was in grade 5 or below at the time of expulsion and who was expelled for possessing a firearm or threatening another person with a dangerous weapon may file a petition for reinstatement 60 school days or later from the date of the expulsion. The Board, in its discretion, may reinstate a student who was in grade 5 or below at the time of expulsion and who was expelled for possessing a firearm or threatening another person with a dangerous weapon no sooner than 90 school days after the date of the expulsion.

The parent/guardian (or student if emancipated or at least 18 years old) of a student who was in grade 5 or below at the time of expulsion and who was expelled for possessing a dangerous weapon but not for possessing a firearm or threatening another person with a dangerous weapon, or who was expelled for committing arson or criminal sexual conduct, may file a petition for reinstatement at any time. The Board, in its discretion, may reinstate a student who was in grade 5 or below at the time of expulsion and who was expelled for possessing a dangerous weapon (unless the possession was of a firearm or involved threatening another person with a dangerous weapon) or for committing arson or criminal sexual conduct no sooner than 10 school days after the date of the expulsion.

The parent/guardian (or student if emancipated or at least 18 years old) of a student who was in grade 6 or above at the time of expulsion and who was expelled for (1) possessing a dangerous weapon; (2) committing arson; (3) committing criminal sexual conduct; or (4) physically assaulting an employee, volunteer, or contractor, may file a petition for reinstatement 150 school days or later from the date of the expulsion. The Board, in its discretion, may reinstate a student who was in grade 6 or above at the time of expulsion and who was expelled for (1) possessing a dangerous weapon; (2) committing arson; (3) committing criminal sexual conduct; or

(4) physically assaulting an employee, volunteer, or contractor, no sooner than 180 school days after the date of the expulsion.

It is the responsibility of the parent/guardian (or the student if emancipated or at least 18 years old) to prepare and submit the reinstatement petition. The Board will, however, provide a reinstatement petition form, upon request, for the parent/guardian or student to use. The Board may request that the parent/guardian or the student attach additional relevant information to the reinstatement petition.

The Board will appoint a reinstatement committee, consisting of 2 board members, 1 administrator, 1 teacher, and 1 parent of a current District student, to consider a reinstatement petition. The Board will appoint the reinstatement committee no more than 10 school days after receiving a reinstatement petition. The Superintendent is directed to prepare and submit information to the reinstatement committee related to the circumstances surrounding the student's expulsion and any factors supporting and not supporting reinstatement.

The reinstatement committee must convene not later than 10 school days following its appointment to: (1) review the reinstatement petition and supporting documentation submitted by the parent/guardian or the student; (2) review the information submitted by the Superintendent; and (3) submit to the Board a written recommendation on whether the Board should unconditionally reinstate the student, conditionally reinstate the student, or deny reinstatement to the student, based on consideration of all of the following factors:

1. The extent to which reinstatement would create a risk of harm to other students or personnel;
2. The extent to which reinstatement would create a risk of school liability or individual liability for the board or school personnel;
3. The age and maturity of the student;
4. The student's school record before the incident that caused the expulsion;
5. The student's attitude concerning the incident that caused the expulsion;
6. The student's behavior since the expulsion and the student's prospects for remediation; and
7. If the petition was filed by a parent or guardian, the degree of cooperation that the parent or guardian has provided the student and the degree of cooperation that the parent or guardian can be expected to provide the student if the student is reinstated.

Before making its recommendation, the reinstatement committee may request that the student and his or her parent/guardian appear in person to answer questions. If the committee recommends that the student be conditionally reinstated, the committee must include in its written recommendation to the Board a list of recommended conditions.

At or before its next regularly scheduled meeting following receipt of the reinstatement committee's recommendation, the Board will consider the recommendation and make a final decision to unconditionally reinstate the student, conditionally reinstate the student, or deny reinstatement. The Board may require a student, and if the petition was filed by a parent/guardian, the parent/guardian, to agree in writing to specific conditions to reinstatement, including, without limitation, a behavior contract, completion of an anger management program, a "last-chance" agreement, counseling, drug treatment, or a psychological evaluation. The Board's decision to unconditionally grant, conditionally grant, or deny the reinstatement petition is final. Unless otherwise expressly authorized by the Board at the time of denial, if the Board denies reinstatement, the parent, guardian, or student may not file another petition for reinstatement until 180 school days after the date of the denial.

Reinstatement Following Discretionary Permanent Expulsion

The Board delegates to the Superintendent to consider all requests for reinstatement following a discretionary permanent expulsion. Unless otherwise expressly authorized by the Board at the time of a permanent expulsion, a student expelled for reasons other than those resulting in a mandatory permanent expulsion may not petition the Superintendent for reinstatement until at least 150 school days after the date of the expulsion, and the student may not be reinstated until at least 180 school days after the date of the permanent expulsion. Upon receipt of a timely reinstatement petition, the Superintendent will hold a hearing to consider the petition and any information

submitted by the student or his or her parent/guardian and the administration in either support of or opposition to the petition. The Superintendent may unconditionally grant, conditionally grant, or deny the reinstatement petition. The Superintendent's decision is final. Unless otherwise expressly authorized by the Board at the time of a permanent expulsion, if the Superintendent denies reinstatement, the parent, guardian, or student may not file another petition for reinstatement until at least 180 school days after the date of the denial.

Enrollment Following Misconduct at Another District

To the extent permitted by law, the District may deny enrollment to a student who engaged in misconduct in another school and who seeks to enroll in the District either: (1) before the previous school imposes disciplinary consequences for the misconduct, or (2) while the student is suspended or expelled from the previous school. The Superintendent is directed to refer any such student to the Board if, under the District's student code of conduct, the student's misconduct in the previous school would result in a long-term suspension or expulsion from the District and, in the Superintendent's opinion, the student's enrollment in the District would jeopardize the safety, welfare, or good order of the District. The Board will hold a pre-enrollment hearing following the Superintendent's referral to consider whether the student may enroll and, if so, any conditions on enrollment. The Board will consider any information submitted by the student or his or her parent/guardian and the Superintendent in either support of or opposition to the student's enrollment.

Due Process

It is the Board's policy to ensure that all students are provided due process as required by state and federal law before a student is suspended or expelled. The Board directs the Superintendent, and all school administrators to protect the due process rights of students as explained below.

If a school administrator determines that an emergency exists that requires the immediate removal of a student from school, the administrator may contact the student's parent/guardian or local law enforcement, or take other measures, to have the student safely removed from school. The administrator must, as soon as practicable thereafter, follow the procedures outlined in this section of the policy.

Suspension – 10 or fewer days

Before making the decision to suspend a student for 10 or fewer school days, an administrator will: (1) provide the student verbal notice of the offense the student is suspected to have committed, and (2) provide the student an informal opportunity to explain what happened. Except in emergency circumstances, an administrator will not suspend the student unless, after providing the student notice and an opportunity to explain, the administrator is reasonably certain that the student committed a violation of the student code of conduct and that suspension is the appropriate consequence. A student or his or her parent/guardian may appeal an administrator's decision to suspend a student for 10 or fewer school days to the Building Principal. The appeal must be submitted to the Building Principal within 3 calendar days of the suspension. The Building Principal's decision is final. The student will remain suspended while the appeal is pending.

Suspension – 59 days or less

Before making the decision to suspend a student for more than 10 school days but less than 60 days, the Superintendent will provide the student and his or her parent/guardian: (1) written notice of the offense the student is suspected to have committed, and (2) notice of the date, time, and location of the hearing. At the hearing, the student may present evidence and witnesses to show that the student did not commit the alleged offense or that suspension is not an appropriate consequence. The Superintendent will provide the student and his or her parent/guardian at least 3 calendar days' notice before the hearing. The student and his or her parent/guardian may be represented at their cost by an attorney or another adult advocate at the hearing. The Superintendent will not suspend the student unless, following the hearing, he or she is convinced by a preponderance of the evidence that the student committed a violation of the student code of conduct and that suspension is the appropriate consequence. The Superintendent's decision is final.

Expulsion – 60 days or more

For a student subject to a discretionary expulsion of 60 days or longer, the Superintendent shall provide the student and his or her parent/guardian: (1) written notice of the offense the student is suspected to have committed, and (2) notice of the date, time, and location of the hearing before the Superintendent. At the hearing, the student may present evidence and witnesses to show that the student did not commit the alleged offense or that expulsion is not an appropriate consequence. The Superintendent will provide the student and his or her parent/guardian at least 3 calendar days' notice before the hearing. The student and his or her parent/guardian may be represented at their cost by an attorney or another adult advocate at the hearing. The Superintendent will not recommend to the Board that the student be expelled unless, following the hearing, he or she is convinced by a preponderance of the evidence that the student committed a violation of the student code of conduct and that expulsion is the appropriate consequence.

A student or his or her parent/guardian may appeal the Superintendent's expulsion recommendation to the Board. The appeal must be submitted to the Board within 3 calendar days of the expulsion. The Board will hear the appeal at its next regularly scheduled meeting. The Board will review the information submitted at the Superintendent-level hearing and determine (1) whether the allegations against the student were established by a preponderance of the evidence; and (2) whether the expulsion is warranted based on the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

For a student subject to a mandatory expulsion under this policy or Michigan law, the Superintendent shall provide the student and his or her parent/guardian: (1) written notice of the offense the student is suspected to have committed, and (2) notice of the date, time, and location of the hearing before the Superintendent. At the hearing, the student may present evidence and witnesses to show that the student did not commit the alleged offense or that expulsion is not an appropriate consequence. The Superintendent will provide the student and his or her parent/guardian at least 3 calendar days' notice before the hearing. The student and his or her parent/guardian may be represented at their cost by an attorney or another adult advocate at the hearing. The Superintendent will not refer the student to the Board for expulsion unless, following the hearing, he or she is convinced by a preponderance of the evidence that the student committed an act resulting in a mandatory expulsion under this policy or Michigan law. If the Superintendent determines that the student committed an offense provided under the mandatory expulsion language of this policy or Michigan law, the Superintendent shall refer the discipline to the Board.

A student or his or her parent/guardian may appeal the Superintendent's decision to recommend a mandatory expulsion to the Board. The appeal must be submitted to the Board within 3 calendar days of the expulsion. The Board will hear the appeal at its next regularly scheduled meeting. The Board will review the information submitted at the Superintendent-level hearing and determine (1) whether the allegations against the student were established by a preponderance of the evidence; and (2) whether the expulsion is warranted based on the following factors:

1. The student's age;
2. The student's disciplinary history;
3. Whether the student has a disability;
4. The seriousness of the behavior;
5. Whether the behavior posed a safety risk;
6. Whether restorative practices are a better option; and
7. Whether lesser interventions would address the behavior.

The Board's decision is final. The student will remain suspended while the appeal is pending. If the student does not file an appeal of the Superintendent's recommendation, the Board will adopt the proposed discipline.

Law Enforcement

The Board directs administrators to contact law enforcement any time a student engages in suspected illegal conduct that jeopardizes the health or safety of other students or staff, including any time a student is in possession of a dangerous weapon at school or a school-related activity or en route to or from school. In addition, the Board directs administrators to notify law enforcement as required by the Statewide School Safety Information Policy.

Reporting

The Board directs administrators to notify law enforcement when required by the Statewide School Safety Information Policy and to make all other reports and provide all other notifications required by the School Safety Information Policy or any state or federal law.

The Board directs administrators to refer a student who is expelled for (1) possession of a dangerous weapon; (2) arson; (3) criminal sexual conduct; or (4) physically assaulting an employee, volunteer, or contractor to the county department of social services or the county community mental health agency and to notify the student's parent/guardian (or the student if the student is at least age 18 or is an emancipated minor) of the referral within 3 calendar days of the expulsion.

Educational Programming During Suspension or Expulsion

Except as otherwise provided in this policy, a student who has been suspended or expelled may not be on school property, attend classes or other school functions, or participate in extracurricular activities during the student's suspension or expulsion. The Board authorizes school officials to assist students who have been suspended or expelled to explore alternative means, as allowed by law, to earn credit and to complete course work during the period of the student's suspension or expulsion.

Students with Disabilities

It is the Board's policy to follow all applicable state and federal laws related to disciplining students with disabilities. Additionally, students with disabilities are entitled to the same due process protections as all other students.

On the date on which the District decides to (1) expel a student with a disability; (2) suspend a student with a disability for more than 10 consecutive school days; (3) suspend a student with a disability for more than 10 cumulative school days in the same school year if a pattern of removals exist (explained below); or (4) place a student with a disability in an interim alternative educational setting (explained below), the District will notify the student's parent/guardian of that decision and will provide the parent/guardian a copy of procedural safeguards.

Within 10 school days of a decision to (1) expel a student with a disability or (2) suspend a student with a disability for more than 10 consecutive school days, the District will convene a manifestation determination review team meeting, which must include the parent/guardian and relevant members of the student's IEP or 504 team, to determine whether the student's conduct was a manifestation of his or her disability. If the team concludes that the conduct was a manifestation of the student's disability, the District may not continue the suspension or expulsion. For a student with an IEP, if the team finds the conduct to be a manifestation of the student's disability, the District must either: (1) conduct a functional behavioral assessment (unless one was previously conducted) and implement a behavior intervention plan for the student, or (2) if a behavior intervention plan was already developed, review and modify the behavior intervention plan to address the conduct at issue. If the IEP or 504 team concludes that the conduct was a manifestation of the student's disability,

the student must be returned to the placement from which the student was removed unless the parent and the District agree to change the placement or unless the student may be placed in a 45-school day interim alternative educational setting (explained below). If the team concludes that the conduct was not a manifestation of the student's disability, the District may proceed with the suspension or expulsion by observing the due process requirements discussed above and, if the student has and IEP must, if appropriate, conduct a functional behavioral assessment and develop a behavior intervention plan for the student.

Before suspending a student with a disability for more than 10 cumulative days in a school year, District administration must determine whether the student's removals from school constitute a pattern. If the District determines that the removals constitute a pattern, the District will, within 10 school days of a decision to expel the student or to suspend the student for more than 10 cumulative school days in a school year, convene a manifestation determination review team meeting, which must include the parent/guardian and relevant members of the student's IEP team, to determine whether the student's conduct was a manifestation of his or her disability. If the team concludes that the conduct was a manifestation of the student's disability, the District may not continue the suspension or expulsion. For a student with an IEP, if the team finds the conduct to be a manifestation of the student's disability, the District must either: (1) conduct a functional behavioral assessment (unless one was previously conducted) and implement a behavior intervention plan or (2) if a behavior intervention plan was already developed, review and modify the behavior intervention plan to address the conduct at issue. If the team concludes that the conduct was a manifestation of the student's disability, the student must be returned to the placement from which the student was removed unless the parent and the District agree to change the placement or unless the student may be placed in a 45-school day interim alternative educational setting (explained below). If the team concludes that the conduct was not a manifestation of the student's disability, the District may proceed with the suspension or expulsion by observing the due process requirements discussed above and, if the student has and IEP must, if appropriate, conduct a functional behavioral assessment and develop a behavior intervention plan for the student.

District administrators may remove a student with a disability who engages in any of the following conduct to an interim alternative educational setting for not more than 45 school days, even if the conduct is a manifestation of the student's disability:

1. Carrying a weapon to or possessing a weapon at school, on school premises, or to or at a school function;
2. Knowingly possessing or using illegal drugs, or selling or soliciting the sale of a controlled substance, while at school, on school premises, or at a school function; or
3. Inflicting serious bodily injury upon another person while at school, on school premises, or at a school function.

For purposes of this section of the Policy *only*, a "weapon" means a device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. A "weapon" does not include a pocket knife with a blade of less than 2½ inches in length. No student may be removed to an interim alternative educational setting without first receiving the due process rights afforded under this Board Policy.

Within 10 school days of a decision to place a student in an interim alternative educational setting, District administration must convene a manifestation determination review team meeting, which must include the parent/guardian and relevant members of the student's IEP team, to determine whether the student's conduct was a manifestation of his or her disability. If the student has an IEP and the team concludes that the conduct was a manifestation of the student's disability, the District must either: (1) conduct a functional behavioral assessment (unless one was previously conducted) and implement a behavior intervention plan or (2) if a behavior intervention plan was already developed, review and modify the behavior intervention plan to address the conduct at issue. If the student has an IEP and the team concludes that the conduct was not a manifestation of the student's disability, the District must, if appropriate, conduct a functional behavioral assessment and develop a behavior intervention plan for the student.

The District reserves its right to remove a dangerous student from school to the maximum extent permitted by law. The Board directs administration to follow all state and federal laws governing the removal of dangerous students with disabilities.

If a student who is eligible for services under the Individuals with Disabilities Education Act is expelled or suspended for more than 10 school days during a school year or placed in a 45-school day interim alternative educational setting, administrators must ensure that the student continues to receive programs and services, although in a setting other than the regular school setting, that are sufficient to enable the student to participate in the general education curriculum and to progress toward meeting the goals contained in the student's IEP.

A student who is not currently identified as a student with a disability is entitled to the rights and procedures provided to students with disabilities if the District had knowledge that the student was a student with a disability before the misconduct occurred. The District will be deemed to have knowledge that a student was a student with a disability only if: (1) the student's parent/guardian expressed concern in writing to a District administrator that the student needed special education or related services, (2) the student's parent/guardian requested a special education evaluation, or (3) the student's teacher or other personnel expressed specific concerns about a pattern of behavior demonstrated by the student to the District's special education director or to other supervisory personnel. The District will, however, be deemed to not have had knowledge that the student was a student with a disability if: (1) the student's parent/guardian refused to allow the District to evaluate the student; (2) the student's parent/guardian refused special education for the student; or (3) the student was previously evaluated and determined to not be a student with a disability.

This policy does not provide a comprehensive description of the disciplinary rights and procedures due to students with disabilities. The Board directs administration to ensure that all other rights of students with disabilities are protected and all procedures applicable to students with disabilities are followed as required by the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act, state law, and Board policy.

HEARING RIGHTS AND PROCEDURES

Right to a Hearing

Before a student is suspended from school for more than 10 school days or is expelled from school, the student has a right to a hearing. The Superintendent, or his or her designee (hereinafter “Superintendent”), conducts hearings for students accused of committing an offense that may result in suspension of less than 60 school days and for students accused of committing an offense that may result in an expulsion of 60 days or more, or permanent expulsion. A removal from school for 60 or more days is an expulsion.

What Is a Hearing?

If, after investigating student misconduct, a school administrator (“Administrator”) determines that a student engaged in misconduct that should result in either a suspension of more than 10 school days or expulsion, the Administrator will refer the matter to the Superintendent. The Superintendent will conduct a due process hearing to determine: (1) whether the alleged misconduct occurred; and (2) if so, what the appropriate consequences should be.

The student, and his or her parent/guardian, will be notified in writing at least three (3) calendar days before the hearing. The notice will include: (1) a description of the alleged misconduct; (2) the potential disciplinary consequences that may be imposed; (3) the date, time, and location of the hearing; and (4) an invitation to the student and his or her parent/guardian to attend and participate in the hearing.

During the hearing, the Administrator will provide a description of the alleged misconduct and an explanation of the facts related to the misconduct. The student, and his or her parent/guardian, may present evidence and witnesses to demonstrate that the student did not engage in the alleged misconduct or that suspension or expulsion is not the appropriate consequence. The student, and his or her parent/guardian, may also present evidence of any mitigating factors that the Superintendent should consider. The student, and his or her parent/guardian, may be represented by an attorney, or another adult advocate, at their sole expense.

Although the student, and his/her parent/guardian, is entitled to due process, student discipline hearings are not trials. The student and his or her parent/guardian do not have the right to compel attendance of witnesses or to cross examine witnesses. Typical rules of evidence are not followed. A student’s refusal to answer a question, unless the student is invoking his/her Fifth Amendment rights, or failure to attend a hearing may be considered by the Superintendent and the Board.

Superintendent Hearing

If, following an investigation, a student is recommended for suspension for more than 10 school days, but fewer than 60 school days, or an expulsion for 60 days or greater, the Superintendent will conduct the hearing. At least three (3) calendar days before the hearing, the Superintendent will provide the student, and his or her parent/guardian, the written notice described above.

The Superintendent will not suspend the student unless, after the completion of the hearing, the Superintendent is convinced, based on a preponderance of the evidence, that the student committed a violation of the Student Code of Conduct, and after considering all legally required factors, suspension is the appropriate consequence. The Superintendent will provide written notification of his or her decision to the student, and the student’s parent/guardian, within three (3) calendar days of the hearing. The Superintendent’s decision is final.

Board Hearing

If, following a disciplinary hearing, the Superintendent recommends a student for expulsion (60 or more days), the student may appeal that decision to the Board of Education. At least three (3) calendar days before the Board

considers the appeal, the Superintendent will provide the student, and his or her parent/guardian, the written notice of the date, time, and location of the Board meeting to review the appeal.

On appeal, the Board will undertake the following:

1. Provide the student, and his or her parent/guardian, the opportunity to request that deliberations be held in closed session pursuant to section 8(b) of the Michigan Open Meetings Act. The student, and his or her parent/guardian, must notify the Superintendent before the hearing to request that the deliberations occur in closed session;
2. At the sole discretion of the Board of Education, they may appoint a hearing officer if so determined appropriate;
3. Review the evidence submitted at the disciplinary hearing before the Superintendent;
4. Provide the Administration with an opportunity to explain the evidence supporting discipline;
5. Provide the student and his or her parent/guardian with an opportunity to address the Board;
6. Determine (1) whether the allegations against the student were established by a preponderance of the evidence; and (2) whether the expulsion is warranted based on the following factors:
 - The student's age;
 - The student's disciplinary history;
 - Whether the student has a disability;
 - The seriousness of the behavior;
 - Whether the behavior posed a safety risk;
 - Whether restorative practices are a better option; and
 - Whether lesser interventions would address the behavior.
7. Take action in open session at the current Board meeting to (a) adopt the Superintendent's disciplinary recommendation; (b) modify the disciplinary recommendation; or, (c) rescind all discipline.

The Administrator, student, and his or her parent/guardian, may not provide additional evidence or testimony before the Board that was not presented before the Superintendent at the disciplinary hearing.

The appeal will be considered at a regular or special Board meeting.

The Superintendent will provide written notification of the Board's decision to the student, and his or her parent/guardian, within two (2) calendar days of the hearing. The Board's decision is final.

Students with Disabilities

Suspension or expulsion of a student with a disability is subject to the rights and procedures guaranteed by state and federal law. Except as otherwise authorized by law, a student with a disability may not be suspended for more than ten (10) consecutive school days, or expelled, for conduct that is a manifestation of the student's disability.

Legal Reference:

MCL 380.11a; MCL 380.1308; MCL 380.1309; MCL 380.1310; MCL 380.1310a; MCL 380.1310c; MCL 380.1310d; MCL 380.1311; MCL 380.1311a; MCL 380.1313
Gun Free Schools Act, 20 U.S.C. §7151

18 U.S.C. §921
Individuals with Disabilities Education Act, 20 U.S.C. §1401 *et seq.*
Rehabilitation Act of 1973, 29 U.S.C. §§705, 794-794b.