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Student Suspension and Expulsion Procedures

A Model Policy & Rules

A Service of Your DPI
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MODEL POLICY AND RULES, WITH COMMENTS,
FOR ASSISTANCE TO LOCAL BOARDS IN
MEETING THE REQUIREMENTS OF PROCEDURAL
DUE PROCESS IN DEALING WITH STUDENT
SUSPENSION AND EXPULSION

IMPORTANT: THIS IS A MODEL ONLY

This model contains numerous ethical, educational and legal judgments. Do not accept any portion of this model as local policy or rules until after full and sufficient consideration. It is always wise to have proposed local policies and regulations reviewed by legal counsel.

Prepared by a Committee
of the Iowa Department
of Public Instruction

Des Moines, Iowa
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Introduction

Over the past two decades, the courts have taken special notice of what educators have been saying for a long time -- the access to a formal education is fundamentally important to a human being in modern society. This point has repeatedly been emphasized by the courts in decisions relating to the equalization of educational finance, special education, segregation, and due process rights of students. Some educators, however, have not agreed with the courts' protection of the fundamental importance of education through actions taken to prevent arbitrary decisions of boards of education and administrators in removing students from school for disciplinary reasons. In protecting students from being arbitrarily removed from schools, the courts are not trying to "interfere" or "meddle" in education. They are merely trying to see to it that educators live up to the important role in society that has been cast for education.

If a formal education is as vital in today's society as both the courts and educators appear to believe, then every reasonable effort should be made to keep students in school. Any expulsion or dismissal should only be made by schools as a last resort and when all attempts and alternatives to a formal education have been explored and have failed. The exclusion of a student on any other basis would have to be viewed as a failure on the part of the school, not the student.

School officials and staff have a significant responsibility in the consideration of policies and procedures which may effectively terminate for all time the formal education of a student. Both the rights and responsibilities of the student and of the school must be kept in perspective. In the development of such policies and procedures, the material that follows can help schools safeguard the rights of students. It can also ensure that schools are more certain of the facts when all other alternatives have failed and it is necessary to suspend or expel a student.

Model Policy and Rules for Suspension and Expulsion Procedure

It is of the utmost importance that a delineation be made between "policy" and "rules." Policy is that general statement of direction given by the board of directors to all concerned. Rule is that procedure developed by the school administration by which the policy is to be carried out. Rules detail the application of policy to specific circumstances. Proposed policies and rules should always be reviewed by legal counsel.

This model should not be presented for verbatim adoption. It is offered only for consideration and revision. This model has no direct application for the specific rules regarding misconduct for which a student may be suspended. Schools must be certain to review their regulations governing student misconduct and see that students are informed of such rules.

3. Written notice of the probation and the reasons therefore shall be sent to the student's parents or legal guardians, the Superintendent and the President of the Board no later than the school day following the day probation was imposed.

B. In-School Suspension

1. In-school suspension is the temporary isolation of a student from one or more classes while under proper administrative supervision. In-school suspensions may be imposed by the principal or other person in charge of the attendance center for infractions of school rules which are serious but which do not warrant the necessity of removal from school.
2. The principal or other person in charge of attendance center shall conduct an informal investigation of the allegations against the student prior to imposition of an in-school suspension. Such an investigation shall include, but not necessarily be limited to, written or oral notice to the student of the allegations against him and an opportunity to respond. In-school suspension shall not be imposed for a longer period than five (5) school days. Written notice of the in-school suspension and the reasons therefore shall be sent to the student's parents or legal guardian, the Superintendent and the President of the Board no later than the school day following the day in-school suspension was imposed.

(Comment: Probation and in-school suspension are two disciplinary alternatives to the removal of the student from school. The development of other alternatives is encouraged.)

C. Suspension

1. Suspension is the removal of a student from the school environment for periods of short duration. Suspension is to be employed only when all other available school resources are unable to cope constructively with pupil misconduct.
2. A student may be suspended for up to three school days by a principal or other person in charge of an attendance center for a commission of gross or repeated infractions of school rules, or when the presence of the student will cause substantial interference with the maintenance of the educational environment or the normal operation of the school. The principal or other person in charge of an attendance center may suspend such students only after conducting an informal investigation of the charges against the student, giving the student:
 - a. Oral or written notice of the allegations against the student.
 - b. The basis in fact for the charges, and

completion of educational or psychological testing and observation. In such instances, prior to the suspension, the principal or other person in charge of the attendance center shall make known to the student the allegations against the student and allow the opportunity for the student to respond. The principal will notify the parents or guardians no later than the end of the school day following the day that the indefinite suspension was imposed, in writing of the circumstances involving the student, the names of school officials or teachers who have knowledge pertaining to the circumstances and enclose a copy of the Board policy and rules pertaining to suspension. A reasonable effort shall also be made to notify the student's parents by telephone or personal contact, and such effort shall be documented by the person making or attempting to make the contact. A written report will be submitted to the Superintendent and the President of the Board of Directors containing all facts concerning the indefinite suspension.

2. Parents or legal guardians of students so suspended may make an appointment to meet with school administrators at the earliest possible time. At the conclusion of such conference, the school administration shall determine when the student will be reinstated and under what conditions. Under no circumstances shall a student not be reinstated within ten (10) school days.

(Comment: IMPORTANT NOTE: Legally and ethically, the indefinite suspension by administrators is full of pitfalls. The indefinite administrative suspension is not recommended for use by school districts. The inclusion in this model is only to aid those districts which, after due consideration, have determined it advisable to include it in their own rules.)

An alternative to an indefinite suspension would be to follow the board suspension procedure and have the student's return to school conditional upon factors determined by the school board pursuant to §282.5.)

II. Board action

- A. Board suspensions for lengthy periods of time are extreme measures of discipline to be employed only when all available school resources are unable to cope constructively with pupil misconduct. The removal of a student from the educational environment for any lengthy period of time is viewed as a severe form of punishment to be used sparingly.
- B. Upon the recommendation of the Superintendent or his designee, the Board of Directors may suspend a student for commission of gross or repeated infractions of school rules, or when the continued presence of the student will cause substantial interference with the maintenance of the educational environment or the normal operation of the school.

3. If the parents or legal guardians of a student cannot be notified, or cannot be present at the hearing because of extenuating circumstances, and request a postponement, the Board shall postpone the hearing until the parents or legal guardians are notified and available to be present. Such request for postponement should be made at least forty-eight hours prior to the scheduled hearing time.
4. If the student has reached the age 18 at the time the alleged acts took place, the student is then authorized to make decisions, sign documents and obtain representation on his own behalf and may elect to be represented by his parent or guardian. However, notice shall also be given to the parents as outlined above unless the student shows that he or she is no longer dependent upon or residing with his or her parents and does not want them notified.
5. If the student, the student's parent, guardian, or representative do not request postponement for cause, and are not present at the time and place scheduled in the hearing notice, the hearing shall proceed without them. In such an event, the record will show a factual determination by the Board that sufficient and proper notice was given the parties and no postponement was requested.
6. Permission will be granted for the appearance of counsel or other representation.
7. The opportunity will be granted prior to the hearing, for the student or his representative to examine copies of documents to be used as evidence. Permission will be granted for the student or his representative to discuss the matter with administrators, teachers and other witnesses at times which will not be disruptive.
8. The superintendent or his designee shall present evidence in behalf of his recommendation. An attorney hired by the Board may not present evidence and at the same time advise the Board.
9. Witnesses at the hearing, or persons whose testimony has been submitted in written form, if available, shall be subject to cross-examination by any party as is necessary for a full and true disclosure of the facts.
10. The opportunity will be granted for the student or his counsel to present the student's version or refutation of the allegations through documents and witnesses. If the student refuses to testify, the student shall not be punished for refusal to testify, nor shall such refusal in any way be construed as an indication of guilt.
11. The Board's decision will be based solely upon evidence introduced at the hearing.

gining of the second semester unless the Board suspension originally took effect during the last three calendar weeks of the first semester. This review may lead to a recommendation that the student shall be reinstated in school for the second semester.

III. Notice to Educational Community

- A. Rules regarding the suspension of students shall be published in a regular basis in appropriate school publications.
- B. Copies of the rules regarding the suspension of students shall be maintained in each attendance center of the school district and shall be distributed upon request at no cost.

Legal Reference: Code of Iowa §279.8
§282.4
§282.5

Goss v. Lopez 95 S. Ct. 729 (1975)

Suggested Forms for Board Suspensions

Forms 1, 2, 3, and 4 were adapted from Standard and Guidelines For Providing Due Process of Law to the South Dakota Students, published by the South Dakota Department of Education and Cultural Affairs.

These are sample forms which may be used by school districts. Any school board may develop its own forms but a set of forms similar to these should be used to carry out the due process procedure.

FORM 1

If the student, parent, guardian or representative wish to waive the hearing, and accept the recommended penalty as stated above, the enclosed waiver form must be returned to the office of the Superintendent of Schools within 24 hours of receipt of this notice. If such waiver is not received, the hearing shall be held as scheduled above. Enclosed is a copy of the Suspension Hearing Procedures of the _____ School District.

Superintendent of Schools

cc: Each School Board Member
File

Date _____

Name of Student

Superintendent of Schools

School District

RE: Waiver of Hearing

I certify that I am the parent/guardian of _____
_____ and that I have received the following items from
you:

- (a) Notice of hearing on proposed Board suspension from school of
above-named student;
- (b) The Hearing Procedures of the _____
School District.

I request that the hearing specified in the hearing notice be waived,
with the understanding that by so waiving the hearing, the recommended
penalty will automatically become effective upon action of the Board
of Directors of this School District.

Signature of Parent or Guardian

Address

Note: If student is 18 years of age or older, the student may sign
in lieu of parent or guardian.

FORM 4

4. The decision of this Board of Directors is appealable through Chapter 290, Code of Iowa.
5. Said student is eligible for re-enrollment on _____.

Signed _____
Superintendent

School District

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