

SUSPENSIONS AND EXPULSIONS GUIDANCE FOR ADMINISTRATORS AND SCHOOL STAFF

GENERAL INFORMATION: SUSPENSIONS AND EXPULSIONS

The Revised School Code provides each school district with the authority to establish a local discipline policy. Each local school board or its designee has the authority to suspend or expel students guilty of “gross misdemeanor or persistent disobedience,” after considering the [7 factors](#), including lesser interventions.

These 7 factors are:

- *Student age*
- *Disciplinary history*
- *Disability*
- *Seriousness of behavior*
- *Safety risk*
- *Use of Restorative Practices*
- *Level of intervention*

Districts shall develop and implement a code of student conduct and enforce its provisions regarding a pupil’s misconduct in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school sponsored activity or event whether or not it is held on school premises. MDE provides a [Model Code of Student Conduct](#) as a guide. A local or intermediate school district or a public school academy must develop and implement a code of student conduct and enforce the provisions of that code regarding misconduct [[MCL 380.11a](#), [380.1311](#), [380.1312](#)].

DUE PROCESS

Fairness dictates that students be given notice of the types of conduct which are prohibited and the potential consequences of the misconduct. A school’s rules and procedures for suspending or expelling a student should be outlined in the Code of Conduct or handbook adopted by the local board of education.

Suspension –10 Days or Less

While the ten-day limit for short-term suspension may be widely accepted, the evidence exists that excluding a student from two weeks of instruction can have a devastating effect on the student, school performance, and long-term success. Therefore, as part of its commitment to graduating well-educated students, MDE recommends the maximum length of short-term suspensions be five days.

For a suspension of 10 days or less, a student is entitled to minimal due process protections, including oral or written notice of the accusation(s), what disciplinary measures are being proposed, and an opportunity to respond. If feasible, the notice and hearing should precede the student's removal from school. If the student's presence poses a danger to persons or property or threatens to disrupt the academic process, prior notice and hearing may not be feasible. In this case, a hearing should follow the student's removal from school as soon as possible.

Suspension – More Than 10 Days and Expulsions

A more formal due process procedure is required when serious disciplinary measures are alleged against a student. This includes rebuttable presumption and consideration of the "7 factors". The student shall be given reasonable time to prepare for the hearing. The person conducting the disciplinary hearing must be impartial. The board of education, a school administrator or disciplinary panel may conduct the hearing as long as they are truly impartial.

Students with Disabilities

Students with disabilities are afforded specific due process protection in cases of suspension or expulsion under state and federal law. For further information, contact your local or intermediate special education director or the Office of Special Education and Early Intervention Services toll-free at (888) 320-8384 or mde-ose@michigan.gov.

TYPES OF SUSPENSIONS AND EXPULSIONS

Recognizing exclusionary discipline's negative impact, the school community will reserve exclusion for only the most serious offenses. They will also employ positive behavioral expectations, restorative practices and discipline measures, and early intervention/diversion strategies that focus on screening and treatment to minimize suspended students' time away from school and potential court involvement. Please note that when used to address a situation of serious misconduct, restorative justice should be administered by a fully trained practitioner. If criminal charges result from the incident, the school may choose to engage the affected parties in restorative justice after the case is resolved in the judicial system.

In considering students' suspension or expulsion, a district shall comply with [MCL 380.1310\(c\)\(d\)](#) as follows:

A school board or its designee *shall consider* using restorative practices as an alternative or in addition to suspension or expulsion. If a school board or its designee suspends or expels a pupil under this act, the school board or its designee shall consider using restorative practices in addition to suspension or expulsion. If a school board or its designee decides not to suspend or expel a pupil for a disciplinary issue, the school board or its designee shall consider using restorative practices to address the disciplinary issue. Restorative practices 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.

Before suspending or expelling a pupil under section the board of a school district or intermediate school district or board of directors of a public school academy, or a superintendent, school principal, or other designee under section [1311\(1\)](#), shall consider the 7 factors.

In general, subject to 1310(d), Michigan law requires a school district to permanently expel (subject to possible reinstatement) a student who possesses a dangerous weapon in a weapon-free school zone unless that student meets one of four exceptions (listed below) provided in the law.

Michigan law also requires permanent expulsion (subject to possible reinstatement) of students who commit arson, criminal sexual conduct against another student (as defined in the law and noted below), or a physical assault against a school employee, contractor, or volunteer.

Michigan law also requires school districts to suspend or expel a student in grades 6 and above who commits physical assault against another student. Those exclusions can last no more than 180 days.

In addition, Michigan law also allows any teacher to impose one-day “snap suspensions” from his/her class for students, and it establishes procedures the teacher must follow when exercising this option. Under the law, the suspending teacher must take a number of steps, outlined below.

Weapons, Arson, or Criminal Sexual Conduct Expulsion

School districts are required to permanently expel (subject to possible reinstatement) students who possess a dangerous weapon, commit arson, or engage in criminal sexual conduct in a school building or on school grounds. The law allows for possible reinstatement [MCL 380.1311]. The term “dangerous weapon” means a firearm, dirk, dagger, stiletto, iron bar, knife with a blade over 3 inches in length, pocketknife opened by a mechanical device, and brass knuckles [[MCL 380.1313\(4\)](#)]. The term “criminal sexual conduct” is defined in the [Michigan Penal Code, 1931, PA 328 MCL 750.520](#). It refers to sections which describe various levels of sexual penetration, sexual conduct, and assault with intent to commit criminal sexual conduct [[MCL 750.520b](#), [520c](#), [520d](#), [520e](#), [520g](#)].

The definition of “firearm” in section 380.1311 refers to the definition of that term in the federal Gun-Free Schools Act of 1994, which in turn refers to another section of federal law which defines “firearm” as:

- *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.*

- *The frame or receiver of any such weapon.*
- *Any firearm muffler or firearm silencer.*
- *Any destructive device.*

Dangerous Weapon Exceptions

School boards are not required to expel a student if the student can establish in a clear and convincing manner at least one of the following:

- *The object or instrument possessed by the student was not possessed for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.*
- *The weapon was not knowingly possessed by the student.*
- *The student did not know or have reason to know that the object or instrument possessed by the student constituted a dangerous weapon.*
- *The weapon was possessed by the student at the suggestion, request or direction of, or with the express permission of school or police authorities.*

There is a rebuttable presumption that expulsion under subsection (2) for possession of a weapon is not justified if both of the following are met:

- *The school board or its designee determines in writing at least 1 of the factors listed has been established in a clear and convincing manner.*
- *The pupil has no history of suspension or expulsion.*

A student who possesses a weapon in a weapon-free school zone or commits arson or criminal sexual conduct at school or on school grounds is expelled from all Michigan public schools unless the school district operates or participates in an alternative education program appropriate for expelled students or unless the student is reinstated by the expelling board of education pursuant to the reinstatement procedure.

If a student is expelled for possession of a dangerous weapon in a weapon-free school zone, arson in a school building or on school grounds, or criminal sexual conduct in a school building or on school grounds, the school board shall ensure that within three (3) days after the expulsion an official of the school district refers the individual to the appropriate county department of health and human services or county department of community mental health agency, and notifies the individual's parent or legal guardian, or, if the individual is at least age 18 or an emancipated minor, notifies the individual of the referral. [MCL 380.1311(5)].

Teacher "Snap" Suspension

A teacher may suspend a student from the classroom for up to one day if the student creates a safety threat as defined by local policy. The policy shall be adopted as part of the school district's code of student conduct and specify the types of behavior for which a student may be suspended. If a student is retained in the school, the student must be

under appropriate supervision. A parent-teacher conference shall follow the suspension as soon as possible and may include a school counselor, school psychologist, or school social worker. A student may return that school day to the classroom, subject to activity for which he or she was suspended, with the concurrence of the teacher and the school principal [[MCL 380.1309](#)].

Bomb Threats or Similar Threat

If a student in grade six (6) or above makes a bomb threat, or similar threat, directed at a school building, other school property, or a school-related event, then the school board or the designee on behalf of the school board, as described in MCL 380.1311(1), shall suspend or expel the pupil from the school district for a period of time as determined at the discretion of the school board or its designee.

Physical Assault - Student to Student

A student in grade six (6) or above who commits physical assault against another student shall be suspended or expelled for up to 180 school days by the school board or its designee, if the physical assault is reported to the school board, superintendent, or principal.

The term “physical assault” means “intentionally causing or attempting to cause physical harm to another through force or violence” [MCL 380.1310].

Physical Assault - Student to Employee or Volunteer

A student expelled for committing physical assault against an employee, contractor, or volunteer of a district at school or on school grounds is expelled from all Michigan public schools unless the school district operates or participates in an alternative education program appropriate for expelled students or unless the student is reinstated by the expelling board of education pursuant to the statutory reinstatement process.

The term “physical assault” means “intentionally causing or attempting to cause physical harm to another through force or violence” [MCL 380.1311a].

If a student in grade six (6) or above is expelled for committing a physical assault against a school employee, contractor, or volunteer, the school board shall ensure that within three days after the expulsion an official of the school district refers the individual to the appropriate county Department of Human Services or county Department of Community Mental Health agency, and notifies the individual’s parent or legal guardian or, if the individual is at least age 18 or is an emancipated minor, notifies the individual of the referral [MCL 380.1311(4)].

PETITIONING FOR REINSTATEMENT

Although the law calls for the “permanent” expulsion of a student who commits a physical assault against an employee or a volunteer of a district, at school or on school grounds, subsection (6) provides a process for petitioning for reinstatement to school. It is the responsibility of the petitioning person (a parent, legal guardian, or the expelled student (if they are at least 18 years of age or an emancipated minor), to prepare and submit the petition for reinstatement. The school board is not required to assist in the preparation of the petition. If a petition form is requested by a person wishing to be reinstated, the school board must make the petition form available.

A parent, legal guardian, or the student (if they are at least 18 years of age or an emancipated minor) may initiate a petition any time after 150 school days following the date of expulsion. A student may be reinstated 180 school days following the date of expulsion. The local school board may include conditions in a petition for reinstatement. If the expelling school board denies a petition for reinstatement, the petitioner may petition another school board for reinstatement. The following timelines and procedures apply to reinstatement.

Committee Review and Recommendation

Within 10 school days after receiving a petition for reinstatement, the school board must appoint a committee comprised of two school board members, one school administrator, one teacher, and one parent of a student in the school district to review the petition and any supporting information submitted by the petitioner. During this time, the superintendent may prepare and submit information concerning the circumstances of the expulsion and any factors weighing in favor of or against reinstatement.

Not later than 10 school days after being appointed, the committee must review the petition and supporting information together with information provided by the school district and submit a recommendation to the school board. The committee may recommend unconditional reinstatement, conditional reinstatement, or against reinstatement. The recommendation must be accompanied by an explanation of the reasons for the recommendation. If the recommendation is for conditional reinstatement, it must include any recommended conditions.

The committee’s recommendation must be based on all the following factors:

- *The extent to which reinstatement of the student would create a risk of harm to pupils or school personnel.*
- *The extent to which reinstatement would create a risk of school district or individual liability for the school board or school district personnel.*
- *The age and maturity of the individual.*
- *The student’s school record before the incident that caused the expulsion.*
- *The student’s attitude concerning the incident that caused the expulsion.*
- *The student’s behavior since the expulsion and the prospects for remediation.*

- *If the petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by, and that can be expected from, that person if the student is reinstated, including, but not limited to, receptiveness toward possible conditions placed on the reinstatement.*

School Board Decision

After receiving the committee's recommendation, the school board must decide no later than the next regularly scheduled board meeting. The school board must decide either to reinstate the student, conditionally reinstate the student, or deny reinstatement.

Before conditionally reinstating the student, a school board may require a student and the parent or legal guardian to agree in writing to specific conditions. The conditions may include, but are not limited to, the following:

- *Agreement to a behavior contract which may involve the student, parent or legal guardian, and an outside agency.*
- *Participation in, or completion of, an anger management program or other appropriate counseling.*
- *Periodic progress reviews.*
- *Specified immediate consequences for failure to abide by a condition.*

The law provides that the decision of the school board is final.

ALTERNATIVE EDUCATION

A school district may provide an alternative education for a student who has been suspended or expelled. The Michigan Attorney General issued an opinion cited as [1985 OAG 6271](#) which stated that the board of education of a school district which, in accordance with due process requirements, suspends for a lengthy period of time, or permanently expels, a non-handicapped student who is subject to the compulsory education requirements, is not mandated to provide an alternative education program for a student.

It is the responsibility of the parent or legal guardian to locate a suitable alternative education program and to enroll their child in a program during the expulsion. For further information regarding alternative education programs available in your area, contact your local or intermediate school district go to the MDE School Health and Safety page.

A student who has been suspended or expelled from his or her resident district for any reason may attend a nonresident alternative education program without the resident district's approval [[MCL 388.1606\(6\)\(g\)](#)]. In addition, a student who previously dropped out of school, is pregnant or is a parent, or has been referred to the program by the court may attend a nonresident alternative education program without the resident district's approval.

Alternative Placement - Student to Employee or Volunteer Physical Assault Expulsion

Unless the school district operates or participates in an alternative education program appropriate for a student expelled pursuant to section 380.1311a(2) and at the school district's discretion admits the student to that program or a "strict discipline academy," the student is expelled from all Michigan public schools. A student cannot be enrolled unless a petition for reinstatement has been granted [MCL 380.1311a(2)].

A program operated for expelled students must ensure that a student is physically separated at all times during the school day from the general pupil population. If the student is not placed in an alternative education program or a "strict discipline academy," the school district may provide or arrange for the intermediate school district to provide to the student appropriate instructional services at home. Home based services are designed to help students who are unable to attend school to keep up with their studies [MCL 388.1709].

If there is no available alternative education program through his or her resident district, an expelled student may enroll in an adult education program [MCL 388.1707(2)(b)(ii)]. The expelled student must be at least 16 years of age on September 1 of the school year. The reason of expulsion must be due to weapons, arson, criminal sexual assault or physical assault against an employee or a volunteer of the district.

This information is provided as a service of the Michigan Department of Education and is distributed with the understanding that the Department is not engaged in rendering legal advice. Those individuals desiring or requiring legal advice should seek the services of an attorney.

The sections of the Revised School Code that address Suspensions and expulsions are contained in the Michigan Compiled Laws under MCL 380.11a, 380.1309, 380.1310, 380.1311, 380.1311a, 380.1312, 388.1606 and 388.1707.

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