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5035 Student Discipline

Administrative and teaching personnel may take actions regarding student behavior, other than those specifically provided in this policy and the Student Discipline Act, which are reasonably necessary to aid the student, further school purposes, or prevent interference with the educational process. Such actions may include, but need not be limited to, counseling of students, parent conferences, referral to restorative justice practices or services, rearrangement of schedules, requirements that a student remain in school after regular hours to do additional work, restriction of extracurricular activity, or requirements that a student receive counseling, psychological evaluation, or psychiatric evaluation upon the written consent of a parent or guardian to such counseling or evaluation. Disciplinary consequences may also include in-school suspension, Saturday School, and any other consequence authorized by law. District administrators may develop building-specific protocols for the imposition of student discipline.

In this policy, references to "Principal" shall include building principals, the principal's designee, or other appropriate school district administrators.

Any statement, notice, recommendation, determination, or similar action specified in this policy shall be effectively given at the time written evidence thereof is delivered personally to or upon receipt of certified or registered mail or upon actual knowledge by a student or his or her parent or guardian.

Any student who is suspended or expelled from school pursuant to this policy may not participate in any school activity during the duration of that exclusion including adjacent school holidays and weekends. The student activity eligibility of a student who is mandatorily reassigned shall be determined on a case-by-case basis by the principal of the building to which the student is reassigned.

Short-Term Suspension

The Principal may exclude students from school or any school function for a period of up to five school days (short-term suspension) on the following grounds:

1. Conduct constituting grounds for expulsion as hereinafter set forth; or,
2. Other violations of rules and standards of behavior adopted by the Board of Education or the administrative or teaching staff of the school, that occur on or off school grounds, if such conduct interferes with school purposes or there is a connection between such conduct and school.

The following process applies to short-term suspension:

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- 46 1. The Principal shall make a reasonable investigation of the facts and
47 circumstances. Short-term suspension shall be imposed only after a
48 determination that the suspension is necessary to help any student, to further
49 school purposes, or to prevent an interference with school purposes.
50
- 51 2. Prior to commencement of the short-term suspension, the student will be given
52 oral or written notice of the charges against the student. The student will be
53 advised of what he or she is accused of having done, be given an explanation of
54 the evidence the authorities have, and be given an opportunity to explain the
55 student's version of the facts.
56
- 57 3. Within 24 hours or such additional time as is reasonably necessary following the
58 suspension, the Principal will send a written statement to the student, and the
59 student's parent or guardian, describing the student's conduct, misconduct or
60 violation of the rule or standard and the reasons for the action taken. An
61 opportunity will be given to the student, and the student's parent or guardian, to
62 have a conference with the Principal ordering the short-term suspension before
63 or at the time the student returns to school. The Principal shall determine who, in
64 addition to the parent or guardian, is to attend the conference.
65
- 66 4. Students who are short-term suspended will be given the opportunity to complete
67 classwork, including but not limited to examinations, as determined by the
68 building principal.
69

70 **Emergency Exclusion**

71
72 Students may be emergency excluded from school pursuant to the board's separate
73 policy on emergency exclusion or state law.
74

75 **Weapons and/or Firearms**

76
77 Students may be disciplined for the possession of weapons and/or firearms pursuant to
78 the board's separate policy on weapons and firearms or state law.
79

80 **Long-Term Suspension**

81
82 Students may be excluded by the Principal from school or any school function for a
83 period of more than five school days but less than twenty school days (long-term
84 suspension) for any conduct constituting grounds for expulsion as hereinafter set forth.
85 The process for long-term suspension is set forth below.
86

87 **Expulsion**

- 88
89 1. **Meaning of Expulsion.** Expulsion means exclusion from attendance in all
90 schools, grounds and activities of or within the system for a period not to exceed
91 the remainder of the semester in which it took effect unless the misconduct

92 occurred (a) within ten school days prior to the end of the first semester, in which
93 case the expulsion shall remain in effect through the second semester, or (b)
94 within ten school days prior to the end of the second semester, in which case the
95 expulsion shall remain in effect for summer school and the first semester of the
96 following school year, or (c) unless the expulsion is for conduct specified in these
97 rules or in law as permitting or requiring a longer removal, in which case the
98 expulsion shall remain in effect for the period specified therein. Such action may
99 be modified or terminated by the school district at any time during the expulsion
100 period.

101
102 2. **Summer Review.** Any expulsion that will remain in effect during the first
103 semester of the following school year will be automatically scheduled for review
104 before the beginning of the school year. The review will be conducted by the
105 hearing officer who conducted the initial expulsion hearing, or a hearing officer
106 appointed by the Superintendent in the event no hearing was previously held or
107 the initial hearing officer is no longer available or willing to serve, after the
108 hearing officer has given notice of the review to the student and the student's
109 parent or guardian. This review shall be limited to newly discovered evidence or
110 evidence of changes in the student's circumstances occurring since the original
111 hearing. This review may lead to a recommendation by the hearing officer that
112 the student be readmitted for the upcoming school year. If the school board or
113 board of education or a committee of such board took the final action to expel the
114 student, the student may be readmitted only by action of the board. Otherwise
115 the student may be readmitted by action of the Superintendent.

116
117 3. **Suspension of Enforcement of an Expulsion:** Enforcement of an expulsion
118 action may be suspended (i.e., "stayed") for a period of not more than one full
119 semester in addition to the balance of the semester in which the expulsion takes
120 effect, and as a condition of such suspended action, the student may be
121 assigned to a school, class, or program/plan and to such other consequences
122 which the school district deems appropriate.

123
124 4. **Alternative School or Pre-expulsion Procedures.** The school shall either
125 provide an alternative school, class or educational program for expelled students
126 or shall follow the pre-expulsion procedures outlined in NEB. REV. STAT. 79-266.

127
128 **Grounds for Long-Term Suspension, Expulsion or Mandatory Reassignment:**

129
130 The following conduct constitutes grounds for long-term suspension, expulsion, or
131 mandatory reassignment, subject to the procedural provisions of the Student Discipline
132 Act, NEB. REV. STAT. § 79-254 through 79-296, when such activity occurs on school
133 grounds, in a vehicle owned, leased, or contracted by a school being used for a school
134 purpose or in a vehicle being driven for a school purpose by a school employee or by
135 his or her designee, or at a school-sponsored activity or athletic event:

- 137 1. Use of violence, force, coercion, threat, intimidation, or similar conduct in a
138 manner that constitutes a substantial interference with school purposes;
- 139 2. Willfully causing or attempting to cause substantial damage to property, stealing
140 or attempting to steal property of substantial value, or repeated damage or theft
141 involving property;
- 142 3. Causing or attempting to cause personal injury to a school employee, to a school
143 volunteer, or to any student. Personal injury caused by accident, self-defense, or
144 other action undertaken on the reasonable belief that it was necessary to protect
145 some other person shall not constitute a violation of this subdivision;
- 146 4. Threatening or intimidating any student for the purpose of or with the intent of
147 obtaining money or anything of value from such student;
- 148 5. Knowingly possessing, handling, or transmitting any object or material that is
149 ordinarily or generally considered a weapon (see also board policy on weapons
150 and firearms);
- 151 6. Engaging in the unlawful possession, selling, dispensing, or use of a controlled
152 substance or an imitation controlled substance, as defined in section 28-401, a
153 substance represented to be a controlled substance, or alcoholic liquor as
154 defined in section 53-103.02 or being under the influence of a controlled
155 substance or alcoholic liquor (note: the term "under the influence" for school
156 purposes has a less strict meaning than it does under criminal law; for school
157 purposes, the term means any level of impairment and includes even the odor of
158 alcohol on the breath or person of a student; also, it includes being impaired by
159 reason of the abuse of any material used as a stimulant);
- 160 7. Public indecency as defined in section 28-806, except that this prohibition shall
161 apply only to students at least twelve years of age but less than nineteen years of
162 age;
- 163 8. Engaging in bullying as defined in section 79-2,137 and in these policies;
- 164 9. Sexually assaulting or attempting to sexually assault any person if a complaint
165 has been filed by a prosecutor in a court of competent jurisdiction alleging that
166 the student has sexually assaulted or attempted to sexually assault any person,
167 including sexual assaults or attempted sexual assaults which occur off school
168 grounds not at a school function, activity, or event. For purposes of this
169 subdivision, sexual assault means sexual assault in the first degree as defined in
170 section 28-319, sexual assault in the second degree as defined in section 28-
171 320, sexual assault of a child in the second or third degree as defined in section
172 28-320.01, or sexual assault of a child in the first degree as defined in section 28-
173 319.01, as such sections now provide or may hereafter from time to time be
174 amended;
- 175 10. Engaging in any other activity forbidden by the laws of the State of Nebraska
176 which activity constitutes a danger to other students or interferes with school
177 purposes; or
- 178 11. A repeated violation of any of the following rules if such violations constitute a
179 substantial interference with school purposes:
- 180 a. The use of language, written or oral, or conduct, including gestures, which
181 is profane or abusive to students or staff members. Profane or abusive
182 language or conduct includes, but is not limited to, that which is commonly

183 understood and intended to be derogatory toward a group or individual
184 based upon race, gender, national origin, or religion;

- 185 b. Dressing or grooming in a manner which violates the school district's
186 dress code and/or is dangerous to the student's health and safety, a
187 danger to the health and safety of others, or which is disruptive, distracting
188 or indecent to the extent that it interferes with the learning and educational
189 process;
- 190 c. Violating school bus rules as set by the school district or district staff;
- 191 d. Possessing, using, selling, or dispensing tobacco, drug paraphernalia, an
192 electronic nicotine delivery system or a tobacco imitation substance or
193 packaging, regardless of form, including cigars, cigarettes, chewing
194 tobacco, and any other form of tobacco, tobacco derivative product or
195 imitation or electronic cigarettes, vapor pens, etc.;
- 196 e. Possessing, using, selling, or dispensing any drug paraphernalia or
197 imitation of a controlled substance regardless of whether the actual
198 substance possessed is a controlled substance by Nebraska law;
- 199 f. Possession of pornography;
- 200 g. Sexting or the possession of sexting images (a combination of sex and
201 texting - the act of sending sexually explicit messages or photos
202 electronically);
- 203 h. Engaging in hazing, defined as any activity expected of someone joining a
204 group, team, or activity that humiliates, degrades or risks emotional and/or
205 physical harm, regardless of the person's willingness to participate.
206 Hazing activities are generally considered to be: physically abusive,
207 hazardous, and/or sexually violating and include but are not limited to the
208 following: personal servitude; sleep deprivation and restrictions on
209 personal hygiene; yelling, swearing and insulting new members/newbies;
210 being forced to wear embarrassing or humiliating attire in public;
211 consumption of vile substances or smearing of such on one's skin;
212 branding; physical beatings; binge drinking and drinking games; sexual
213 simulation and sexual assault;
- 214 i. Bullying which shall include cyber-bullying, defined as the use of the
215 internet, including but not limited to social networking sites such as
216 Facebook, cell phones or other devices to send, post or text message
217 images and material intended to hurt or embarrass another person. This
218 may include, but is not limited to; continuing to send e-mail to someone
219 who has said they want no further contact with the sender; sending or
220 posting threats, sexual remarks or pejorative labels (i.e., hate speech);
221 ganging up on victims by making them the subject of ridicule in forums,
222 and posting false statements as fact intended to humiliate the victim;
223 disclosure of personal data, such as the victim's real name, address, or
224 school at websites or forums; posing as the identity of the victim for the
225 purpose of publishing material in their name that defames or ridicules
226 them; sending threatening and harassing text, instant messages or emails
227 to the victims; and posting or sending rumors or gossip to instigate others
228 to dislike and gang up on the target;

- 229 j. Violation of the district's computer acceptable computer use policy are
- 230 subject to discipline, up to and including expulsion; and
- 231 k. Knowingly possessing, handling, or transmitting any object or material that
- 232 is ordinarily or generally considered a simulated or "look-a-like" weapon;
- 233 l. Using any object to simulate possession of a weapon, and
- 234 m. Any other violation of a rule or regulation established by a school district
- 235 staff member pursuant to authority delegated by the board.

236 **Due Process Afforded to Students Facing Long-term Suspension or Expulsion**

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239 The following procedures shall be followed regarding any long-term suspension,
240 expulsion or mandatory reassignment

- 241
- 242 1. On the date of the decision to discipline, the Principal shall file with the
- 243 Superintendent a written charge and a summary of the evidence supporting such
- 244 charge.
- 245
- 246 2. The Principal shall serve the student and the student's parents or guardian with a
- 247 written notice by registered or certified mail or personal service within two school
- 248 days of the date of the decision to recommend long-term suspension or
- 249 expulsion. The notice shall include the following:
 - 250
 - 251 a. The rule or standard of conduct allegedly violated and the acts of the
 - 252 student alleged to constitute a cause for long-term suspension, expulsion,
 - 253 or mandatory reassignment, including a summary of the evidence to be
 - 254 presented against the student;
 - 255
 - 256 b. The penalty, if any, which the principal has recommended in the charge
 - 257 and any other penalty to which the student may be subject;
 - 258
 - 259 c. A statement that, before long-term suspension, expulsion, or mandatory
 - 260 reassignment for disciplinary purposes can be invoked, the student has a
 - 261 right to a hearing, upon request, on the specified charges;
 - 262
 - 263 d. A description of the hearing procedures provided by the act, along with
 - 264 procedures for appealing any decision rendered at the hearing;
 - 265
 - 266 e. A statement that the principal, legal counsel for the school, the student,
 - 267 the student's parent, or the student's representative or guardian has the
 - 268 right (i) to examine the student's academic and disciplinary records and
 - 269 any affidavits to be used at the hearing concerning the alleged misconduct
 - 270 and (ii) to know the identity of the witnesses to appear at the hearing and
 - 271 the substance of their testimony; and
 - 272
 - 273 f. A form on which the student, the student's parent, or the student's
 - 274 guardian may request a hearing, to be signed by such parties and

275 delivered to the principal or superintendent in person or by registered or
276 certified mail.

277
278 3. When a notice of intent to discipline a student by long-term suspension,
279 expulsion, or mandatory reassignment is filed with the superintendent, the
280 student may be suspended by the principal until the date the long-term
281 suspension, expulsion, or mandatory reassignment takes effect if no hearing is
282 requested or, if a hearing is requested, the date the hearing examiner makes the
283 report of his or her findings and a recommendation of the action to be taken to
284 the superintendent, if the principal determines that the student must be
285 suspended immediately to prevent or substantially reduce the risk of (a)
286 interference with an educational function or school purpose or (b) a personal
287 injury to the student himself or herself, other students, school employees, or
288 school volunteers.

289
290 4. Nothing in this policy shall preclude the student, student's parents, guardian or
291 representative from discussing and settling the matter with appropriate school
292 personnel prior to the hearing stage.

293
294 5. If a hearing is requested within five days after receipt of the notice, the
295 Superintendent shall appoint a hearing officer who shall follow the "hearing
296 procedures" outlined below.

297
298 6. If a hearing is requested more than five school days following the receipt of the
299 written notice, but not more than thirty calendar days after receipt, the
300 Superintendent shall appoint a hearing officer who shall follow the "hearing
301 procedures" outlined below, except that the time constraints set forth may differ
302 as provided by law and this policy. The student shall be entitled to a hearing but
303 the consequence imposed may continue in effect pending final determination.

304
305 7. If a request for hearing is not received within thirty calendar days following the
306 mailing or delivery of the written notice, the student shall not be entitled to a
307 hearing.

308
309 In the event a hearing is requested, the hearing, hearing procedures, the
310 student's rights and any appeals or judicial review permitted by law shall be governed
311 by the applicable provisions of the Nebraska Student Discipline Act (NEB. REV. STAT. §
312 79-254 to 79-294). The school district will provide parents with copies of the relevant
313 statutes upon request.

314 315 **Reporting Requirement to Law Enforcement**

316 Violations of this section will result in a report to law enforcement if:

- 317
318 1. The violation includes possession of a firearm;
319 2. The violation results in child abuse;

- 320 3. It is a violation of the Nebraska Criminal Code that the administration believes
321 cannot be adequately addressed solely by discipline from the school district;
322 4. It is a violation of the Nebraska Criminal Code that endangers the health and
323 welfare of staff or students;
324 5. It is a violation of the Nebraska Criminal Code that interferes with school
325 purposes;
326 6. The report is required or requested by law enforcement or the county attorney.

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329 Adopted on: April 10, 2007

330

331 Revised on: August 12, 2014; February 13, 2018; July 10, 2018; July 10, 2019; June 10,
332 2020

333

334 Reviewed on: November 9, 2010; August 12, 2014; October 8, 2013; October 11, 2016;
335 February 13, 2018; July 10, 2018; July 10, 2019; June 10, 2020

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