

# STDNT10.4 - Student Discipline: Expulsion

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## S - Student

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### FOD EXPULSION

#### LOCAL

A recommendation to expel shall be by the Superintendent. The authority to expel rests only with the Board. All expulsions requested shall have supporting data indicating the required due process procedure provided at the time of recommendation.

The Governing Board directs all expulsion hearings to be conducted by a hearing officer selected from a list of hearing officers approved by the Board.

#### REGULAR EDUCATION STUDENTS

Expulsion is the permanent exclusion of a student from school and school activities, unless the Governing Board reinstates the student's privileges to attend school.

*Step 1:* Each recommendation for expulsion shall be delivered to the Superintendent. A recommendation for expulsion may be made before, after, or in conjunction with a long-term suspension hearing if one is to be held.

*Step 2:* If the Superintendent concurs with the recommendation, the Superintendent shall present the recommendation for expulsion to a hearing officer selected from a list of hearing officers approved by the Board.

*Step 3:* The expulsion hearing should be scheduled so it may be resolved, if reasonably possible, during the period of any suspension.

*Step 4:* A formal letter to the responsible parent or guardian will be mailed by certified mail with a return receipt requested or delivered by hand (with an adult witness present) at least five (5) working days prior to the formal hearing. A copy of this letter will remain on file, and the letter should contain:

1. A statement of the charges and the rule or regulation violated.
2. The extent of the punishment to be considered.
3. The date, time, and place of the formal hearing.
4. A designation of the District's witnesses.
5. That the student may present witnesses.
6. That the student may be represented by counsel at the student's expense.
7. The name of the hearing officer and how the hearing officer may be contacted.

*Step 5:* A formal hearing will be held, during which the parent, guardian or emancipated student shall be informed of the following:

1. Nothing in these procedures shall be construed to prevent the students who are subject to the action and their parents or legal guardians and legal counsel from attending any executive (closed) session pertaining to the proposed disciplinary action or from having access to the minutes and testimony of such session or from recording such a session at the parent's or legal guardian's expense.
2. The student is entitled to a statement of the charges and the rule or regulation violated.
3. The student may be represented by counsel, without bias to the student.
4. The student may present witnesses.
5. The student or counsel may cross-examine witnesses presented by the District.

6. The burden of proof of the offense lies with the District.
7. Either the hearing must be recorded on tape, or an official record must be kept in some other appropriate manner. In addition, parents are to be allowed to tape-record the hearing at their own expense.
8. The District has the right to cross-examine witnesses and may be represented by an attorney.
9. The hearing will be conducted in private with the attendance of only the hearing officer, administrative representatives, the student and parent(s), counsel for the parties, and witnesses necessary to the proceedings, unless the parent(s), guardian(s) or emancipated student requests in writing that the hearing be open to public attendance.
10. When a parent or legal guardian disagrees that the hearing should be held in an executive (closed) session, it shall be held in an open meeting unless:
  - a. If only one (1) student is subject to the proposed action, and disagreement exists between that student's parents or legal guardians, then the Board (hearing officer), after consultation with the student's parents or legal guardians, shall decide in executive (closed) session whether the hearing will be in executive (closed) session.
  - b. If more than one (1) student is subject to the proposed action and disagreement exists between the parents of different students, then separate hearings shall be held subject to the provisions of A.R.S. [15-843](#).

*Step 6:* Upon conclusion of a hearing, the hearing officer will consider the matter outside the presence of the student, the student's parent(s), or any other person who participated in the hearing. The hearing officer will prepare a written recommendation to the Superintendent within five (5) school days after the hearing.

#### POST-HEARING PROCEDURE

A formal letter to the parent, guardian will be mailed by certified mail with return receipt requested or delivered by hand (with an adult witness present) and will include the hearing officer's written recommendation. The letter shall explain:

- A. The time and place of the Board meeting at which the recommendation will be made.
- B. That the recommendation may be appealed at the time the recommendation is made to the Board.
- C. That the appeal shall be in writing delivered to the Superintendent prior to the time of the Board meeting.
- D. That the written appeal shall indicate a spokesperson on behalf of the student.
- E. That the spokesperson will be given time to speak to the Board on appeal.
- F. The Board may accept the hearing officer's recommendation or reject the recommendation and impose a different disciplinary action including assignment to an alternative educational program. The Board may grant a new hearing, take the matter under advisement, or take any further action deemed necessary. If the Board decides to expel the student the expulsion shall become effective the day after the Board's decision. The decision of the Board is final.

Upon conclusion of a hearing on expulsion conducted by the Board, the decision of the Board is final.

#### SPECIAL EDUCATION STUDENTS

A student qualified under the Individuals with Disabilities Education Act (IDEA) may not be expelled from school unless, as a result of a manifestation determination, it has been determined that the student's behavior is unrelated to the child's disability. The manifestation determination must be held within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct. In compliance with federal law and regulation, the student may be given a change in placement in lieu of expulsion. Expulsion may not result in termination of educational services for a student qualified under the Individuals with Disabilities Education Act. The individualized education program (IEP) team generally determines a change in the placement of an IDEA-qualified student. During any change in placement the school must provide services to the extent necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's individualized education programs.

A student with a disability qualified under the Americans with Disabilities Act or Section 504 of the Rehabilitation Act of 1973 and not qualified under the Individuals with Disabilities Education Act as revised in 2004, may be suspended or expelled from school, and education services may be ceased, if nondisabled students in similar circumstances do not continue to receive education services.

### *READMITTANCE*

A. A student expelled from the District may request readmittance by making a written application to the Board. Readmission is at the discretion of the Governing Board. In addition, it is the prerogative of the Board to stipulate appropriate conditions for re-admittance. The application for readmittance shall occur no less than nine (9) months after the date of the expulsion; however, the student may not be readmitted until at least two (2) complete semesters have passed (the remainder of the semester in which the violation has occurred and two [2] additional semesters). The application must:

1. Be written and be directed to the attention of the Governing Board.
2. Contain all information that the student and parent(s) consider relevant to the Governing Board's determination as to whether or not to readmit the student. This should include information indicating:
  - a. An appreciation by the student of the severity and inappropriateness of the student's prior misconduct.
  - b. That such misconduct or similar misconduct will not be repeated.
  - c. A description of the student's activities since the expulsion.
  - d. Support of the student's application for readmission.
3. Be filed in the Superintendent's office.

B. The Governing Board shall meet in executive session to consider an initial application for readmission. The student and parents have the right to be present in the executive session but do not have the right to make a presentation or address the Governing Board unless they are asked to do so by the Governing Board. For this reason, it is important that the application for readmission contain all information that the Governing Board may deem important in determining whether to readmit the student. The Governing Board, in its sole discretion, shall determine whether the student should be readmitted, and, if so, under what restrictions and conditions. The burden is on the student and parent(s) to convince the Governing Board that readmission is appropriate considering the interests of the expelled student, the District, and the interests of the other students and staff members. The Governing Board's decision is final.

C. A student may file more than one (1) application for readmission. Applications subsequent to an initial application, however, may not be filed more frequently than every ninety (90) days, and the Governing Board shall meet to discuss and consider the application only if at least two (2) members of the Governing Board ask that the matter be placed on an agenda for discussion in executive session.

As a condition for readmission from an expulsion, the student, with parent(s) or guardian affirmation, shall agree to the following conditions:

- A. Regular attendance - no unexcused absence.
- B. No violation of school rules or policies.
- C. Completion of all classroom tasks in a timely fashion, as directed.
- D. Depending upon the nature of the original violation for which the expulsion was provided, the student may be limited as to attendance or participation in after-school activities, school sports, and extracurricular events or activities.

### **LEGAL**

A.R.S.

[15-342](#)

[15-766](#)

[15-767](#)

[15-841](#)

[15-842](#)

[15-843](#)

20 U.S.C. 1400 *et seq.*,  
20 U.S.C. 7151 *et seq.*,  
29 U.S.C. 794