

Adopted: May 16, 2019

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DISCOVERY WOODS SCHOOL PUPIL FAIR DISMISSAL PROCESS POLICY 9.13

I. PURPOSE

In order to maximize learning and create a positive classroom environment for all students, a student may need to be removed from class for a period of time in order to redirect learning. Therefore, Discovery Woods School may remove a student from class, including a student with a disability, in compliance with Minnesota Pupil Fair Dismissal Act.

II. POLICY STATEMENT

It is the policy of Discovery Woods School to comply with the Minnesota Pupil Fair Dismissal Act fully.

III. DEFINITIONS

A. "Removal from class" and "removal" mean any actions taken by a teacher, Director, or other school employee to prohibit a student from attending a class or activity period for a period of time not to exceed five (5) days, pursuant to this discipline policy.

B. "Dismissal" means the denial of the current educational program to any student, including exclusion, expulsion, and suspension. Dismissal does not include removal from class for less than one school day, except as provided under Chapter 125A and federal law for students receiving special education services.

C. "Suspension" means an action by the school administration, under rules sanctioned by the School Board, prohibiting a student from attending school for a period of no more than ten (10) school days; provided, however, if a suspension is longer than five (5) school days, the suspending administrator shall provide the Director with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less, except as may be provided in federal law for a student with a disability.

D. "Expulsion" means a school board action prohibiting an enrolled student from further attendance for up to twelve (12) months from the date the student is expelled. The authority to expel rests with the School Board.

E. "Exclusion" means an action taken by the School Board to prevent enrollment or re-enrollment of a student for a period that shall not extend beyond the school year.

The authority to exclude rests with the School Board.

F. **Nonexclusionary Discipline.** Nonexclusionary discipline must include at least one of the following: 1) collaborating with the student's family or guardian, child mental health consultant or provider, education specialist, or other community based support; 2) creating a plan, written with the parent or guardian, that details the action and support needed for the student to fully participate in the current education program; or 3) providing a referral for needed support services including parenting education, home visits, other supportive education interventions, or where appropriate, an evaluation to determine if the student is eligible for special education services or section 504 services. Minn. Stat. § 121A.425, subd. 2.

IV. NONEXCLUSIONARY DISCIPLINARY POLICIES AND PRACTICES

- A. Beginning with the 2023-2024 school year, a school cannot dismiss a student without first attempting to use nonexclusionary disciplinary policies and practices unless the student creates an immediate and substantial danger to themselves or surrounding persons or property. Minn. Stat. § 121A.45, subd. 1.**
- 1. Immediate and Substantial Danger.** Most incidents that result in expulsion present an immediate and substantial danger to self, surrounding persons, or property.

V. REMOVAL OF STUDENT FROM CLASS

A. Teachers are responsible for attempting to modify disruptive student behavior by conferring with the student, using positive reinforcement, assigning detention or other consequences, or contacting the student's parents. When such measures fail or when the teacher determines it is otherwise appropriate based upon the student's conduct, the teacher shall have the authority to remove the student from class under the procedures established by this discipline policy.

B. A student must be removed from class immediately if the student engages in assault or violent behavior. Assault includes:

1. An action undertaken by the student with intent to cause fear in another of immediate bodily harm or death; or 2. An action where the student intentionally inflicts or attempts to inflict bodily harm upon another.

C. Other grounds for removal include:

1. Willful conduct that significantly disrupts the rights of others to an education, including conduct that interferes with a teacher's ability to teach or communicate effectively with students in a class or with the ability of other students to learn;
2. Willful conduct that endangers surrounding persons, including school employees, the student or other students, or the property of the school;
3. Willful violation of any school rules, regulations, policies, or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which, at the teacher's or administration's discretion, requires removing the student from class.

D. Removal of a student from class shall be for at least one (1) activity period or class period of instruction for a given course of study and shall not exceed five (5) such periods.

E. If a student is removed from class more than ten (10) times in a school year, the school shall notify the parent or guardian of the student's tenth removal from class and make reasonable attempts to convene a meeting with the student's parent or guardian to discuss the problem that is causing the student to be removed from class.

F. Procedures for Removal From Class. The authority to remove a student from class rests with the classroom teacher. If removal is for part of one class period is to provide the student with some time to avoid problems, the formal procedures of this section need not be followed. If the removal is for an entire period or more, the following procedures must be followed:

1. The teacher should send the student to the Director's office or another area designated by the Director. The Director will provide custodial care of the student.
2. The teacher should provide the Director the following information:
 - a. The reason for the removal;
 - b. Length of removal; and
 - c. Whether there is reason to consider the need for additional assessment or review of the IEP for a special education student, or to consider the need for

identifying and addressing chemical abuse problems of a student while on school premises.

3. The teacher should provide the student and parent the reason for the removal.

VI. DISMISSAL OF STUDENT FROM CLASS

- A. The school shall not deny due process or equal protection of the law to any student involved in a dismissal preceding that may result in suspension, exclusion or expulsion.
- B. Students in a preschool or prekindergarten program and students in kindergarten through grade three, dismissal is prohibited.
- C. The school shall not dismiss any student without attempting to provide alternative educational services before dismissal proceedings, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.
- D. The school shall report any suspension, expulsion or exclusion action taken to the appropriate public service agency, when the student is under the supervision of such agency.
- E. Grounds for Dismissal. Violations leading to suspension, based upon severity, may also be grounds for actions leading to expulsion, and/or exclusion. A student may be dismissed on any of the following grounds:
 1. Willful violation of any reasonable School Board regulation, including those found in this policy;
 2. Willful conduct that significantly disrupts the rights of others to an education, or the ability of school personnel to perform their duties, or school sponsored extracurricular activities; or
 3. Willful conduct that endangers the student or other students, or surrounding persons, including school employees, or property of the school.

VII. MEETING WITH PARENTS

If a student's total days of removal from school exceed ten (10) cumulative days in a school year, the school shall make reasonable attempts to convene a meeting with the student and the student's parent or guardian prior to removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not

required to pay for the mental health screening. The purpose of this meeting is to attempt to determine the pupil's need for assessment or other services or whether the parent or guardian should have the pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

VIII. SUSPENSION PROCEDURES

A. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. The school administration may not impose consecutive suspensions against the same student for the same course of conduct, or incident of misconduct, except where the student will create an immediate and substantial danger to self or to surrounding persons or property or where the school is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.

B. All suspension proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40- 121A.56, and school policy.

C. The school administration shall implement alternative educational services when the suspension exceeds five (5) days. Alternative educational services may include, but are not limited to, special tutoring, modified curriculum, modified instruction, other modifications or adaptations, instruction through electronic media, special education services as indicated by appropriate assessments, homebound instruction, supervised homework, or enrollment in another school or in an alternative learning center under Minn. Stat. § 123A.05 selected to allow the pupil to progress toward meeting graduation standards under Minn. Stat. §120B.02, although in a different setting.

D. After a school administration notifies a student of the grounds for suspension, the school administration may, instead of imposing the suspension, do one or more of the following: (1) strongly encourage a parent or guardian of the student to attend school with the student for one day; (2) assign the student to attend school on Saturday as supervised by the principal or principal's designee; and (3) petition the juvenile court that the student is in need of services under chapter 260C (Juvenile Safety and Placement).

IX. EXPULSION AND EXCLUSION PROCEDURES

A. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§121A.40-121A.56, and school policy.

B. A school administrator shall prepare and enforce an admission or readmission plan for any student who is excluded or expelled from school. The plan may include

measures to improve the student's behavior, require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving student conduct. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

X. STUDENTS WITH A DISABILITY

Students who are currently identified as disabled under IDEA or Section 504 will be subject to the provisions of this policy, unless the student's IEP or 504 Plan specifies a necessary modification.

A. Suspension

1. Where a student with a disability has been suspended for more than five (5) consecutive days, or has accumulated more than ten (10) days of dismissal over the course of the school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program team, including at least one of the child's teachers, shall meet and determine the extent to which the child needs services in order to continue to participate in the general education curriculum, although in another setting and to progress toward meeting the goals in the child's individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.
2. The school administration shall implement alternative educational services when the suspension exceeds five (5) days.
3. The notice requirements for suspension of a student with a disability do not apply to a dismissal of one day or less.

B. Expulsion and Exclusion. Before initiating an expulsion or exclusion under Minn. Stat. §§ 121A.40 to 121A.56, the school, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the student's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under Minn. Stat. § 121A.40 to 121A.56 for misbehavior that is not a manifestation of the child's disability, the school shall continue to provide special education and related services during the exclusion or expulsion.

C. A notice of proposed expulsion should go out to the parent including the reason for the proposed expulsion and inviting them to a meeting to address the behavior relative to the

disability. I'd add this at the start of the paragraph.

XI. STUDENT DISCIPLINE RECORDS

It is the policy of the school that complete and accurate student discipline records be maintained. The collection, dissemination, and maintenance of student discipline records shall be consistent with applicable school policies and federal and state law, including the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13.

XII. REVIEW

The Director or other person having general control and supervision of the school, and representatives of parents, students, and staff in a school building shall confer at least annually to review the discipline policy and to assess whether the policy has been enforced. A school board must conduct an annual review of the district wide discipline policy.

Legal References: Minn. Stat. §13 (Government Data Practices)

Minn. Stat. §§121A.40-121A.56 (Pupil Fair Dismissal Act) Minn. Stat. §§121A.60-121A.61 (Definitions; Discipline and Removal of Students from Class) (including 2016 amendments)

Minn. Stat. § 121A.425, subd. 1.

Minn. Stat. § 124E.03, subd. 2(j).