

Adopted: 7-24-14

MSBA/MASA Model Policy 506

Orig. 1995

Revised: \_\_\_\_\_

Rev. 2013

## **506 STUDENT DISCIPLINE**

*[Note: Education districts are required by statute to have a policy addressing these issues.]*

### **I. PURPOSE**

The purpose of this policy is to ensure that students are aware of and comply with the education district's expectations for student conduct. Such compliance will enhance the education district's ability to maintain discipline and ensure that there is no interference with the educational process. The education district will take appropriate disciplinary action when students fail to adhere to the Code of Student Conduct established by this policy.

### **II. GENERAL STATEMENT OF POLICY**

The education district board recognizes that individual responsibility and mutual respect are essential components of the educational process. The education district board further recognizes that nurturing the maturity of each student is of primary importance and is closely linked with the balance that must be maintained between authority and self-discipline as the individual progresses from a child's dependence on authority to the more mature behavior of self-control.

All students are entitled to learn and develop in a setting which promotes respect of self, others, and property. Proper positive discipline can only result from an environment which provides options and stresses student self-direction, decision-making, and responsibility. Education districts can function effectively only with internal discipline based on mutual understanding of rights and responsibilities.

Students must conduct themselves in an appropriate manner that maintains a climate in which learning can take place. Overall decorum affects student attitudes and influences student behavior. Proper student conduct is necessary to facilitate the education process and to create an atmosphere conducive to high student achievement.

Although this policy emphasizes the development of self-discipline, it is recognized that there are instances when it will be necessary to administer disciplinary measures. The position of the education district is that a fair and equitable district-wide student discipline policy will contribute to the quality of the student's educational experience. This discipline policy is adopted in accordance with and subject to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56.

In view of the foregoing and in accordance with Minn. Stat. § 121A.55, the education district board, with the participation of education district administrators, teachers, employees, students, parents, community members, and such other individuals and

organizations as appropriate, has developed this policy which governs student conduct and applies to all students of the education district.

### **III. AREAS OF RESPONSIBILITY**

- A. The Education district Board. The education district board holds all education district personnel responsible for the maintenance of order within the education district and supports all personnel acting within the framework of this discipline policy.
- B. Executive director. The executive director shall establish guidelines and directives to carry out this policy, hold all education district personnel, students, and parents responsible for conforming to this policy, and support all education district personnel performing their duties within the framework of this policy. The executive director shall also establish guidelines and directives for using the services of appropriate agencies for assisting students and parents. Any guidelines or directives established to implement this policy shall be submitted to the education district board for approval and shall be attached as an addendum to this policy.
- C. Assistant director. The education district assistant director is given the responsibility and authority to formulate building rules and regulations necessary to enforce this policy, subject to final education district board approval. The assistant director shall give direction and support to all education district personnel performing their duties within the framework of this policy. The assistant director shall consult with parents of students conducting themselves in a manner contrary to the policy. The assistant director shall also involve other professional employees in the disposition of behavior referrals and shall make use of those agencies appropriate for assisting students and parents. An assistant director, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- D. Teachers. All teachers shall be responsible for providing a well-planned teaching/learning environment and shall have primary responsibility for student conduct, with appropriate assistance from the administration. All teachers shall enforce the Code of Student Conduct. In exercising the teacher's lawful authority, a teacher may use reasonable force when it is necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another.
- E. Other Education District Personnel. All education district personnel shall be responsible for contributing to the atmosphere of mutual respect within the education district. Their responsibilities relating to student behavior shall be as authorized and directed by the executive director. An education district employee, education district bus driver, or other agent of an education district, in exercising his or her lawful authority, may use reasonable force when it is necessary under the circumstances to restrain a student or prevent bodily harm or

death to another.

- F. Parents or Legal Guardians. Parents and guardians shall be held responsible for the behavior of their children as determined by law and community practice. They are expected to cooperate with education district authorities and to participate regarding the behavior of their children.
- G. Students. All students shall be held individually responsible for their behavior and for knowing and obeying the Code of Student Conduct and this policy.
- H. Community Members. Members of the community are expected to contribute to the establishment of an atmosphere in which rights and duties are effectively acknowledged and fulfilled.

#### **IV. STUDENT RIGHTS**

All students have the right to an education and the right to learn.

#### **V. STUDENT RESPONSIBILITIES**

All students have the responsibility:

- A. For their behavior and for knowing and obeying all education district rules, regulations, policies, and procedures;
- B. To attend school daily, except when excused, and to be on time to all classes and other education district functions;
- C. To pursue and attempt to complete the courses of study prescribed by the state and local education district authorities;
- D. To make necessary arrangements for making up work when absent from school;
- E. To assist the education district staff in maintaining a safe school for all students;
- F. To be aware of all education district rules, regulations, policies, and procedures, including those in this policy, and to conduct themselves in accord with them;
- G. To assume that until a rule or policy is waived, altered, or repealed, it is in full force and effect;
- H. To be aware of and comply with federal, state, and local laws;
- I. To volunteer information in disciplinary cases should they have any knowledge relating to such cases and to cooperate with education district staff as appropriate;
- J. To respect and maintain the education district's property and the property of others;

- K. To dress and groom in a manner which meets standards of safety and health and common standards of decency and which is consistent with applicable education district policy;
- L. To avoid inaccuracies in student newspapers or publications and refrain from indecent or obscene language;
- M. To conduct themselves in an appropriate physical or verbal manner; and
- N. To recognize and respect the rights of others.

**VI. CODE OF STUDENT CONDUCT**

- A. The following are examples of unacceptable behavior subject to disciplinary action by the education district. These examples are not intended to be an exclusive list. Any student who engages in any of these activities shall be disciplined in accordance with this policy. This policy applies to all education district buildings, education district grounds, and education district property; education district-sponsored activities or trips; education district bus stops; education district buses, education district vehicles, education district contracted vehicles, or any other vehicles approved for education district purposes; the area of entrance or departure from education district premises or events; and all education district-related functions. This policy also applies to any student whose conduct at any time or in any place interferes with or obstructs the mission or operations of the education district or the safety or welfare of the student, other students, or employees.
  - 1. Violations against property including, but not limited to, damage to or destruction of education district property or the property of others, failure to compensate for damage or destruction of such property, arson, breaking and entering, theft, robbery, possession of stolen property, extortion, trespassing, unauthorized usage, or vandalism;
  - 2. The use of profanity or obscene language, or the possession of obscene materials;
  - 3. Gambling, including, but not limited to, playing a game of chance for stakes;
  - 4. Violation of the education district's Hazing Prohibition Policy;
  - 5. Attendance problems including, but not limited to, truancy, absenteeism, tardiness, skipping classes, or leaving education district grounds without permission;
  - 6. Violation of the education district's Student Attendance Policy;

7. Opposition to authority using physical force or violence;
8. Using, possessing, or distributing tobacco or tobacco paraphernalia;
9. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of alcohol or other intoxicating substances or look-alike substances;
10. Using, possessing, distributing, intending to distribute, making a request to another person for (solicitation), or being under the influence of narcotics, drugs, or other controlled substances, or look-alike substances, except as prescribed by a physician, including one student sharing prescription medication with another student;
11. Using, possessing, or distributing items or articles that are illegal or harmful to persons or property including, but not limited to, drug paraphernalia;
12. Using, possessing, or distributing weapons, or look-alike weapons or other dangerous objects;
13. Violation of the education district's Weapons Policy;
14. Violation of the education district's Violence Prevention Policy;
15. Possession of ammunition including, but not limited to, bullets or other projectiles designed to be used in or as a weapon;
16. Possession, use, or distribution of explosives or any compound or mixture, the primary or common purpose or intended use of which is to function as an explosive;
17. Possession, use, or distribution of fireworks or any substance or combination of substances or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation;
18. Using an ignition device, including a butane or disposable lighter or matches, inside an educational building and under circumstances where there is a risk of fire, except where the device is used in a manner authorized by the education district ;
19. Violation of any local, state, or federal law as appropriate;
20. Acts disruptive of the educational process, including, but not limited to, disobedience, disruptive or disrespectful behavior, defiance of authority, cheating, insolence, insubordination, failure to identify oneself, improper activation of fire alarms, or bomb threats;

21. Violation of the education district's Internet Acceptable Use and Safety Policy;
22. Possession of nuisance devices or objects which cause distractions and may facilitate cheating including, but not limited to, pagers, radios, and phones, including picture phones;
23. Violation of education district bus or transportation rules or the education district's Student Transportation Safety Policy;
24. Violation of parking or education district traffic rules and regulations, including, but not limited to, driving on education district property in such a manner as to endanger persons or property;
25. Violation of directives or guidelines relating to lockers or improperly gaining access to an education district locker;
26. Violation of the education district's Search of Student Lockers, Desks, Personal Possessions, and Student's Person Policy;
27. Violation of the education district's Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches Policy;
28. Possession or distribution of slanderous, libelous, or pornographic materials;
29. Violation of the education district' Bullying Prohibition Policy;
30. Student attire or personal grooming which creates a danger to health or safety or creates a disruption to the educational process, including clothing which bears a message which is lewd, vulgar, or obscene, apparel promoting products or activities that are illegal for use by minors, or clothing containing objectionable emblems, signs, words, objects, or pictures communicating a message that is racist, sexist, or otherwise derogatory to a protected minority group or which connotes gang membership;
31. Criminal activity;
32. Falsification of any records, documents, notes, or signatures;
33. Tampering with, changing, or altering records or documents of the education district by any method including, but not limited to, computer access or other electronic means;
34. Scholastic dishonesty which includes, but is not limited to, cheating on a education district assignment or test, plagiarism, or collusion, including

the use of picture phones or other technology to accomplish this end;

35. Impertinent or disrespectful language toward teachers or other education district personnel;
36. Violation of the education district's Harassment and Violence Policy;
37. Actions, including fighting or any other assaultive behavior, which causes or could cause injury to the student or other persons or which otherwise endangers the health, safety, or welfare of teachers, students, other education district personnel, or other persons;
38. Committing an act which inflicts great bodily harm upon another person, even though accidental or a result of poor judgment;
39. Violations against persons, including, but not limited to, assault or threatened assault, fighting, harassment, interference or obstruction, attack with a weapon, or look-alike weapon, sexual assault, illegal or inappropriate sexual conduct, or indecent exposure;
40. Verbal assaults or verbally abusive behavior including, but not limited to, use of language that is discriminatory, abusive, obscene, threatening, intimidating, or that degrades other people;
41. Physical or verbal threats including, but not limited to, the staging or reporting of dangerous or hazardous situations that do not exist;
42. Inappropriate, abusive, threatening, or demeaning actions based on race, color, creed, religion, sex, marital status, status with regard to public assistance, disability, national origin, or sexual orientation;
43. Violation of the Education District's Distribution of Nonschool-Sponsored Materials on Education District Premises by Students and Employees Policy;
44. Violation of education district rules, regulations, policies, or procedures, including, but not limited to, those policies specifically enumerated in this policy;
45. Other acts, as determined by the education district, which are disruptive of the educational process or dangerous or detrimental to the student or other students, education district personnel or surrounding persons, or which violate the rights of others or which damage or endanger the property of the education district, or which otherwise interferes with or obstruct the mission or operations of the education district or the safety or welfare of students or employees.

## **VII. DISCIPLINARY ACTION OPTIONS**

The general policy of the education district is to utilize progressive discipline to the extent reasonable and appropriate based upon the specific facts and circumstances of student misconduct. The specific form of discipline chosen in a particular case is solely within the discretion of the education district. At a minimum, violation of education district rules, regulations, policies, or procedures will result in discussion of the violation and a verbal warning. The education district shall, however, impose more severe disciplinary sanctions for any violation, including exclusion or expulsion, if warranted by the student's misconduct, as determined by the education district. Disciplinary action may include, but is not limited to, one or more of the following:

- A. Student conference with teacher, assistant director, counselor, or other education district personnel, and verbal warning;
- B. Confiscation by education district personnel and/or by law enforcement of any item, article, object, or thing, prohibited by, or used in the violation of, any education district policy, rule, regulation, procedure, or state or federal law. If confiscated by the education district, the confiscated item, article, object, or thing will be released only to the parent/guardian following the completion of any investigation or disciplinary action instituted or taken related to the violation.
- C. Parent contact;
- D. Parent conference;
- E. Removal from class;
- F. In-school suspension;
- G. Suspension from extracurricular activities;
- H. Detention or restriction of privileges;
- I. Loss of school privileges;
- J. In-school monitoring or revised class schedule;
- K. Referral to in-school support services;
- L. Referral to community resources or outside agency services;
- M. Financial restitution;
- N. Referral to police, other law enforcement agencies, or other appropriate authorities;
- O. A request for a petition to be filed in district court for juvenile delinquency adjudication;



- P. Out-of-school suspension under the Pupil Fair Dismissal Act;
- Q. Preparation of an admission or readmission plan;
- R. Saturday school;
- S. Expulsion under the Pupil Fair Dismissal Act;
- T. Exclusion under the Pupil Fair Dismissal Act; and/or
- U. Other disciplinary action as deemed appropriate by the education district.

### **VIII. REMOVAL OF STUDENTS FROM CLASS**

- A. Teachers have the responsibility of attempting to modify disruptive student behavior by such means as 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 pursuant to the procedures established by this discipline policy. "Removal from class" and "removal" mean any actions taken by a teacher, assistant director, or other education district 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.

Grounds for removal from class shall include any of the following:

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 education district employees, the student or other students, or the property of the education district;
3. Willful violation of any education district rules, regulations, policies or procedures, including the Code of Student Conduct in this policy; or
4. Other conduct, which in the discretion of the teacher or administration requires removal of the student from class.

Such removal 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.

- B. If a student is removed from class more than ten (10) times in a school year, the education district 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.

***[Note: The following Sections C. - K. must be developed and inserted by each education district based upon individual district practices, procedures, and preferences.]***

***C. Procedures for Removal of a Student From a Class.***

- 1. Specify procedures to be followed by a teacher, administrator or other education district employee to remove a student from a class;*
- 2. Specify required approvals necessary;*
- 3. Specify paperwork and reporting procedures.*

***D. Responsibility for and Custody of a Student Removed From Class.***

- 1. Designation of where student is to go when removed;*
- 2. Designation of how student is to get to designated destination;*
- 3. Whether student must be accompanied;*
- 4. Statement of what student is to do when and while removed;*
- 5. Designation of who has control over and responsibility for student after removal from class.*

***E. Procedures for Return of a Student to a Class From Which the Student Was Removed.***

- 1. Specification of procedures;*
- 2. Actions or approvals required such as notes, conferences, readmission plans.*

***F. Procedures for Notification.***

- 1. Specify procedures for notifying students and parents/guardians of violations of the rules of conduct and resulting disciplinary action;*
- 2. Actions or approvals required, such as notes, conferences, readmission plans.*

***G. Disabled Students; Special Provisions.***

1. *Procedures for consideration of whether there is a need for further assessment;*
2. *Procedures for consideration of whether there is a need for a review of the adequacy of the current Individualized Education Program (IEP) of a disabled student who is removed from class or disciplined; and*
3. *Any procedures determined appropriate for referring students in need of special education services to those services.*

**H. *Procedures for Detecting and Addressing Chemical Abuse Problems of Students While on Education Premises.***

1. *Establishment of a chemical abuse preassessment team pursuant to Minn. Stat. § 121A.26;*
2. *Establishment of a education and community advisory team to address chemical abuse problems in the district pursuant to Minn. Stat. § 121A.27; and*
3. *Establishment of teacher reporting procedures to the chemical abuse preassessment team pursuant to Minn. Stat. § 121A.29.*

**I. *Procedures for Immediate and Appropriate Interventions Tied to Violations of the Code of Student Conduct.***

**J. *Any Procedures Determined Appropriate for Encouraging Early Involvement of Parents or Guardians in Attempts to Improve a Student's Behavior.***

**K. *Any Procedures Determined Appropriate for Encouraging Early Detection of Behavioral Problems.***

**IX. DISMISSAL**

- A. "Dismissal" means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.

The education district shall not deny due process or equal protection of the law to any student involved in a dismissal proceeding which may result in suspension, exclusion or expulsion.

The education district 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.

B. 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 education district 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 education district personnel to perform their duties, or education district sponsored extracurricular activities; or
3. Willful conduct that endangers the student or other students, or surrounding persons, including education district employees, or property of the education district.

C. Suspension Procedures

1. “Suspension” means an action by the education district administration, under rules promulgated by the Education district Board, prohibiting a student from attending education district 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 executive director with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less where a student with a disability does not receive regular or special education instruction during that dismissal period.
2. If a student’s total days of removal from school exceed ten (10) cumulative days in a school year, the education district shall make reasonable attempts to convene a meeting with the student and the student’s parent or guardian before subsequently removing the student from education district and, with the permission of the parent or guardian, arrange for a mental health screening for the student at the parent or guardian’s expense. 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 student assessed or diagnosed to determine whether the student needs treatment for a mental health disorder.
3. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission which must not be used to extend the current suspension. A readmission plan must not obligate a parent or guardian to provide psychotropic drugs to their student as a condition of readmission. Education district administration must not use the refusal of a parent or guardian to consent to the administration of psychotropic drugs to their student or to consent to a psychiatric evaluation, screening, or examination of the student as a ground, by itself, to prohibit the student

from attending class or participating in a education district -related activity, or as a basis of a charge of child abuse, child neglect, or medical or educational neglect. The education district 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 education district is in the process of initiating an expulsion, in which case the education district administration may extend the suspension to a total of fifteen (15) days.

4. A child with a disability may be suspended. When a child with a disability has been suspended for more than five (5) consecutive days or ten (10) cumulative school days in the same year, and that suspension does not involve a recommendation for expulsion or exclusion or other change in placement under federal law, relevant members of the child's IEP 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 IEP. That meeting must occur as soon as possible, but no more than ten (10) days after the sixth (6<sup>th</sup>) consecutive day of suspension or the tenth (10<sup>th</sup>) cumulative day of suspension has elapsed.
5. The education district 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 district 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.
6. The education district administration shall not suspend a student from school without an informal administrative conference with the student. The informal administrative conference shall take place before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension. At the informal administrative conference, a education district administrator shall notify the student of the grounds for the suspension, provide an explanation of the evidence the authorities have, and the student may present the student's version of the facts. A separate administrative conference is required for each period of suspension.
7. After education district administration notifies a student of the grounds for

suspension, education district administration may, instead of imposing the suspension, do one or more of the following:

- a. strongly encourage a parent or guardian of the student to attend school with the student for one day;
  - b. assign the student to attend school on Saturday as supervised by the assistant director or the assistant director's designee; and
  - c. petition the juvenile court that the student is in need of services under Minn. Stat. Ch. 260C.
8. A written notice containing the grounds for suspension, a brief statement of the facts, a description of the testimony, a readmission plan, and a copy of the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56, shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by mail within forty-eight (48) hours of the conference. (See attached sample Notice of Suspension.)
  9. The education district administration shall make reasonable efforts to notify the student's parent or guardian of the suspension by telephone as soon as possible following suspension.
  10. In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to surrounding persons or property, the written notice shall be served upon the student and the student's parent or guardian within forty-eight (48) hours of the suspension. Service by mail shall be complete upon mailing.
  11. Notwithstanding the foregoing provisions, the student may be suspended pending the education district board's decision in an expulsion or exclusion proceeding, provided that alternative educational services are implemented to the extent that suspension exceeds five (5) days.

D. Expulsion and Exclusion Procedures

1. "Expulsion" means a education district board action to prohibit 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 education district board.
2. "Exclusion" means an action taken by the education district 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 education district board.

3. 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.
4. No expulsion or exclusion shall be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent or guardian.
5. The student and parent or guardian shall be provided written notice of the education district's intent to initiate expulsion or exclusion proceedings. This notice shall be served upon the student and his or her parent or guardian personally or by mail, and shall contain a complete statement of the facts; a list of the witnesses and a description of their testimony; state the date, time and place of hearing; be accompanied by a copy of the Pupil Fair Dismissal Act, Minn. Stat. §§ 121A.40-121A.56; describe alternative educational services accorded the student in an attempt to avoid the expulsion proceedings; and inform the student and parent or guardian of their right to: (1) have a representative of the student's own choosing, including legal counsel at the hearing; (2) examine the student's records before the hearing; (3) present evidence; and (4) confront and cross-examine witnesses. The education district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from the Minnesota Department of Education (MDE).
6. The hearing shall be scheduled within ten (10) days of the service of the written notice unless an extension, not to exceed five (5) days, is requested for good cause by the education district, student, parent, or guardian.
7. All hearings shall be held at a time and place reasonably convenient to the student, parent, or guardian and shall be closed, unless the student, parent, or guardian requests an open hearing.
8. The education district shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.
9. The student shall have a right to a representative of the student's own choosing, including legal counsel, at the student's sole expense. The education district shall advise the student's parent or guardian that free or low-cost legal assistance may be available and that a legal assistance resource list is available from MDE. The education district board may appoint an attorney to represent the education district in any proceeding.
10. If the student designates a representative other than the parent or guardian, the representative must have a written authorization from the student and the parent or guardian providing them with access to and/or copies of the student's records.

11. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the education district. The hearing shall be conducted in a fair and impartial manner. Testimony shall be given under oath and the hearing officer shall have the power to issue subpoenas and administer oaths.
12. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all education district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
13. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any education district employee or agent or any other person who may have evidence upon which the proposed dismissal action may be based, and to confront and cross-examine any witnesses testifying for the education district.
14. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.
15. The student cannot be compelled to testify in the dismissal proceedings.
16. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the education district board and served upon the parties within two (2) days after the close of the hearing.
17. The education district board shall base its decision upon the findings and recommendation of the hearing officer and shall render its decision at a meeting held within five (5) days after receiving the findings and recommendation. The education district board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's findings and recommendation provided that neither party presents any evidence not admitted at the hearing. The decision by the education district board must be based on the record, must be in writing, and must state the controlling facts on which the decision is made in sufficient detail to apprise the parties and the Commissioner of Education (Commissioner) of the basis and reason for the decision.
18. A party to an expulsion or exclusion decision made by the education district board may appeal the decision to the Commissioner within twenty-one (21) calendar days of education district board action pursuant to Minn. Stat. § 121A.49. The decision of the education district board shall be implemented during the appeal to the Commissioner.
19. The education district 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.

20. The education district must report, through the MDE electronic reporting system, each expulsion or exclusion within thirty (30) days of the effective date of the action to the Commissioner. This report must include a statement of alternative educational services given the student and the reason for, the effective date, and the duration of the exclusion or expulsion. The report must also include the student's age, grade, gender, race, and special education status. The dismissal report must include state student identification numbers of affected students.
21. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, a education district administrator shall inform the student and his/her parent or guardian by mail of the student's right to attend and to be reinstated in the education district.

#### **X. ADMISSION OR READMISSION PLAN**

A education district 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, including completing a character education program consistent with Minn. Stat. § 120B.232, Subd. 1, and require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving the student's behavior. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

#### **XI. NOTIFICATION OF POLICY VIOLATIONS**

Notification of any violation of this policy and resulting disciplinary action shall be as provided herein, or as otherwise provided by the Pupil Fair Dismissal Act or other applicable law. The teacher, assistant director or other education district official may provide additional notification as deemed appropriate.

#### **XII. STUDENT DISCIPLINE RECORDS**

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

#### **XIII. DISABLED STUDENTS**

Students who are currently identified as eligible under the 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.

Before initiating an expulsion or exclusion of a student with a disability, relevant members of the child's IEP team and the child's parent shall, consistent with federal law, conduct a manifestation determination and determine whether the child's behavior was (i) caused by or had a direct and substantial relationship to the child's disability and (ii) whether the child's conduct was a direct result of a failure to implement the child's IEP. If the student's educational program is appropriate and the behavior is not a manifestation of the student's disability, the education district will proceed with discipline – up to and including expulsion – as if the student did not have a disability, unless the student's educational program provides otherwise. If the team determines that the behavior subject to discipline is a manifestation of the student's disability, the team shall conduct a functional behavioral assessment and implement a behavioral intervention plan for such student provided that the education district had not conducted such assessment prior to the manifestation determination before the behavior that resulted in a change of placement. Where a behavioral intervention plan previously has been developed, the team will review the behavioral intervention plan and modify it as necessary to address the behavior.

When a student who has an IEP is excluded or expelled for misbehavior that is not a manifestation of the student's disability, the education district shall continue to provide special education and related services during the period of expulsion or exclusion.

#### **XIV. OPEN ENROLLED STUDENTS**

The education district may terminate the enrollment of a nonresident student enrolled under an Enrollment Option Program (Minn. Stat. § 124D.03) or Enrollment in Nonresident District (Minn. Stat. § 124D.08) at the end of a school year if the student meets the definition of a habitual truant, the student has been provided appropriate services for truancy (Minn. Stat. Ch. 260A), and the student's case has been referred to juvenile court. The education district may also terminate the enrollment of a nonresident student over the age of seventeen (17) enrolled under an Enrollment Options Program if the student is absent without lawful excuse for one or more periods on fifteen (15) school days and has not lawfully withdrawn from school.

#### **XV. DISTRIBUTION OF POLICY**

The education district will notify students and parents of the existence and contents of this policy in such manner as it deems appropriate. Copies of this discipline policy shall be made available to all students and parents at the commencement of each school year and to all new students and parents upon enrollment. This policy shall also be available upon request in each assistant director's office.

#### **XVI. REVIEW OF POLICY**

The assistant director and representatives of parents, students and staff in each education district building shall confer at least annually to review this discipline policy, determine if the policy is working as intended, and to assess whether the discipline policy has been enforced. Any recommended changes shall be submitted to the executive director for consideration by the education district board, which shall conduct an annual review of this policy.

**Legal References:** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)  
Minn. Stat. § 120B.02 (Educational Expectations for Minnesota Students)  
Minn. Stat. § 120B.232 (Character Development Education)  
Minn. Stat. § 121A.26 (School Preassessment Teams)  
Minn. Stat. § 121A.27 (School and Community Advisory Team)  
Minn. Stat. § 121A.29 (Reporting; Chemical Abuse)  
Minn. Stat. §§ 121A.40-121A.56 (Pupil Fair Dismissal Act)  
Minn. Stat. § 121A.575 (Alternatives to Pupil Suspension)  
Minn. Stat. § 121A.582 (Reasonable Force)  
Minn. Stat. §§ 121A.60-121A.61 (Removal From Class)  
Minn. Stat. § 123A.05 (Area Learning Center Organization)  
Minn. Stat. § 124D.03 (Enrollment Options Program)  
Minn. Stat. § 124D.08 (Enrollment in Nonresident District)  
Minn. Stat. Ch.125A (Students With Disabilities)  
Minn. Stat. Ch. 260A (Truancy)  
Minn. Stat. Ch. 260C (Juvenile Court Act)  
20 U.S.C. §§ 1400-1487 (Individuals with Disabilities Education Improvement Act of 2004)  
29 U.S.C. § 794 *et seq.* (Rehabilitation Act of 1973, § 504)  
34 C.F.R. § 300.530(e)(1) (Manifestation Determination)

**Cross References:** MSBA/MASA Model Policy 413 (Harassment and Violence)  
MSBA/MASA Model Policy 501 (School Weapons)  
MSBA/MASA Model Policy 502 (Search of Student Lockers, Desks, Personal Possessions, and Student's Person)  
MSBA/MASA Model Policy 503 (Student Attendance)  
MSBA/MASA Model Policy 505 (Distribution of Nonschool-Sponsored Materials on School Premises by Students and Employees)  
MSBA/MASA Model Policy 514 (Bullying Prohibition Policy)  
MSBA/MASA Model Policy 524 (Internet Acceptable Use and Safety Policy)  
MSBA/MASA Model Policy 525 (Violence Prevention)  
MSBA/MASA Model Policy 526 (Hazing Prohibition)  
MSBA/MASA Model Policy 527 (Student Use and Parking of Motor Vehicles; Patrols, Inspections, and Searches)  
MSBA/MASA Model Policy 610 (Field Trips)  
MSBA/MASA Model Policy 709 (Student Transportation Safety Policy)  
MSBA/MASA Model Policy 711 (Video Recording on School Buses)  
MSBA/MASA Model Policy 712 (Video Surveillance Other Than on Buses)