

# NJ Student Discipline Rules Fact Sheet

May 2014



## What are my district's disciplinary rules?

Every New Jersey school district must have a written code of conduct or student handbook. The rules apply to all students, although students who receive special education (have an Individualized Education Program) have different rights regarding the consequences of their actions. The handbook:

- Should be distributed yearly to school staff, parents and students.
- May be posted on school websites.
- Copies may be obtained from school district board of education.

At a minimum, the handbook must include:

1. Student responsibilities, including behavior, attendance and expectations regarding academic achievement;
2. Behaviors that will result in suspension or expulsion;
3. Discipline rights of classified students;
4. Attendance policy;
5. Policy and procedures regarding bullying, intimidation and harassment; and
6. Student's rights, including:
  - advance notice of behaviors that will result in suspension or expulsion,
  - attendance in a safe and secure environment, attendance despite marriage, pregnancy or parenthood, due process, appeals procedures in disciplinary matters,
  - available behavioral supports and services.

- referral for child study team evaluations (if not already in special education)
7. A description of potential consequences of violations.

## Can my child be disciplined for conduct outside of school?

School districts have the right to impose consequences for any conduct outside of school that violates the student code of conduct, when it is determined that the conduct will have a serious impact on the school atmosphere or school operations, including another student's safety in school.

## What disciplinary actions can a school district take against my child if he/she breaks the rules?

If a student violates a district's "Code of Conduct" – a set of rules that every district is required to maintain and distribute yearly -- districts can take any of a series of actions, depending upon several factors including, the seriousness of the violation, the student's past conduct, age and possible eligibility for special education services.

Potential disciplinary actions include:

- Deny participation in extracurricular activities, school functions and/or sports or graduation ceremonies;
- Removal from classroom/detention;
- In-school or out-of-school suspension;

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- Expulsion.

Reasonable force is permitted to quiet a disturbance that could physically hurt someone, to take a weapon or other dangerous object from a student, or to protect the student, others or property. Otherwise, corporal punishment (hitting or otherwise using physical force) is prohibited.

A disciplinary action cannot result in a student being prohibited from completing homework and tests and the days suspended may not be considered absences.

The district should also determine what behavioral supports a student needs, such as counseling, positive reinforcement, a child study team referral. The district should also determine whether a harassment, intimidation and bullying (HIB) investigation should be conducted.

**What actions will lead to immediate removal of a student from school?**

- Assault on a teacher, or other school personnel.
- Assault with a weapon or a firearms offense, even if this occurs outside of school grounds.
- Possession or suspicion of being under the influence of illegal/controlled substance or alcohol.

**What actions can justify a long-term school suspension or expulsion? What are a student's rights in this case?**

The following student conduct may lead to long-term suspension or expulsion:

- Continued and willful disobedience or defiance;
- Destruction of school property;
- Taking of property or money from another student by force;
- Joining or encouraging other students to unlawfully occupy school property;
  - Having or using alcohol or illegal substances on school property;

- Open defiance of teachers and other staff;
- Conduct that is dangerous to other students.

Notification of charges must be provided to the student prior to removal and written notification to the parent within two days of suspension, including specific charges, relevant facts, due process rights, including right to counsel, cross-examination and the right to bring witnesses. Prior to a formal hearing a list of witnesses who will testify and their statements must also be provided.

Students must be given the opportunity to address charges, a formal board of education meeting within 30 days of suspension and 10 hours a week of home instruction after the first five days of suspension on at least three separate days.

**What are a student's rights in short-term suspensions (up to 10 consecutive days)?**

Oral or written notification of the charges must be provided to the student and parent(s), including specific charges, relevant facts and due process rights. They must be given the opportunity to address the charges at an informal meeting with administrators (usually the vice-principal) and receive 10 hours a week of home instruction after the first five days of suspension on at least three separate days from a certified teacher or through online instruction.

**What are the procedures for assault, weapons and firearms offenses?**

When a student is suspended for assault, weapons or firearms offenses, the suspension continues until a board of education hearing is held, which cannot be more than 30 calendar days after the suspension.

State law requires that the principal immediately notify law enforcement for weapon and firearms offenses.

A formal board of education hearing must be conducted that complies with the procedural due process requirements. The student will be placed in an alternate education program (except for classified students). If a placement is not immediately available, the student must receive 10 hours a week of home instruction within five days of the exclusion from school until a placement is available. The superintendent has discretion to determine when and if the student can return to the public school, taking into account all the relevant evidence.

### **What are the procedures for drug/controlled substance and alcohol offenses?**

The parent/caregiver must be immediately notified and, if available, take the student to be immediately examined by a physician. If the parent or the child's physician is not available, the examination shall be conducted, at the school district's expense, by the school physician or at a local emergency room, accompanied by school staff and a parent, if available. Removal continues until the school receives a physician's report that the student is physically or mentally able to attend school.

### **What are the appropriate responses and disciplinary actions for students classified as special education?**

Administrators can exercise discretion in responding to the conduct or impose a consequence based upon the child's disability and other relevant factors.

These students are entitled to the same procedural rights as any other student, plus additional rights:

- The student cannot be expelled from the school district.
- The student cannot be punished for conduct that is a function of the student's disability (though consequences can be imposed and

conduct may result in a change in placement).

- The student can be suspended for conduct that is dangerous/disruptive to the student or others and be required to obtain a psychiatric evaluation to determine if it is safe for the child to return to school.
- A functional behavioral assessment should be conducted to develop an appropriate behavior modification plan that is part of the Individual Education Plan.
- Response to conduct that is a function of the student's disability should be the positive behavioral supports listed in the student's behavior modification plan and agreed upon appropriate consequences also contained in the behavior plan.
- Repeated suspensions or repeated requests for parents to pick up child from school or ineffectiveness of behavior plan should result in an IEP meeting to revise the plan based upon new evaluations, as necessary.
- Students must receive 10 hours a week of home instruction after the first five days of suspension.
- For students who receive a long-term suspension or a series of short-term suspensions that add up to more than 10 days, the IEP team must meet to determine whether the conduct was related to the student's disability and whether the school continues to be an appropriate placement for the student.
- When school administrators determine that a change in placement is required, the student can only be in an "interim placement" (such as home instruction) for 45 days until the new placement begins.
- Administrators should consider whether a harassment, intimidation or bullying (HIB) assessment is appropriate.

## **What are the consequences of my child violating attendance policies?**

Students who have more absences than allowed by the code of conduct can be required to repeat the school year. In addition, in high school, too many absences in a class can lead to an automatic “F” for that class and thus loss of credit, which can affect high school graduation.

Students who wish to try to make up the credits must meet with their teachers and guidance counselor several months before the end of the school year to see if credit recovery is possible.

For students who have between five and nine cumulative unexcused absences, the school district must try to work with the parent and provide supports to the student to prevent further absences. Students up to the age of 16 who have 10 or more absences are considered truant and their parents can be referred to municipal court and be subject to fines.

## **How do I appeal a school district’s decision?**

A board of education decision can be appealed directly to the Commissioner of Education at the New Jersey Department of Education. In addition, for classified students, parents who wish to challenge a change in placement, a “manifestation determination,” or a suspension on the grounds that it violates a student’s rights, including procedural rights, may appeal the decision to the Office of Special Education at the New Jersey Department of Education.

## **CONTACT INFO**

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