

PROCEDURE FOR SUSPENSION, EXPULSION AND MANDATORY REASSIGNMENT

The Board of Education of the Creighton Community School delegates to the Superintendent of Schools through the Principals and staff of the schools in the district the establishing of such rules and standards of student conduct, which are reasonably necessary to carry out or to prevent interference with carrying out any educational function, if such rules and standards are not in conflict with the established Board of Education Policy of Nebraska State Statutes.

Teachers and administrators may take actions regarding student behavior which are reasonably necessary to aid the student, further school purposes, or to prevent interference with the educational process. Short of expulsion, exclusion, suspension, or mandatory reassignment teachers may utilize, but need not be limited to techniques such as counseling, parent conferences, rearrangement of schedules, requiring students to remain in school after regular hours to do additional work, restriction of extracurricular activity or requirements that a student receive professional counseling or evaluation, with the consent of a parent or guardian.

SUSPENSION, EXPULSION, OR EXCLUSION:

In the event that a student is absent from school as the result of a suspension, expulsion, or exclusion pursuant to this policy, such absence shall not be regarded as a failure on the part of the student or the school to comply with applicable law regarding compulsory school attendance.

All rules and regulations pertaining to student conduct and discipline as well as suspension, exclusion, and mandatory reassignment shall be guided by the following basic principles:

1. Students may be temporarily excluded from school for the following circumstances:
 - a. communicable disease
 - b. conduct that presents a clear threat to the physical safety of himself/herself or others
 - c. extremely disruptive behavior.
2. Students may be suspended, expelled, or reassigned for such conduct as:
 - a. use of violence, force, coercion, threat, intimidation, or similar conduct that constitutes interference with school purposes
 - b. willful damage to private or school property, stealing of substantial value, or repeated damage or theft involving property
 - c. causing or attempting to cause physical injury to a school employee, volunteer, or student
 - d. threatening or intimidating a student trying to get money or other valuables from the student
 - e. possessing, handling, or transmitting any object or materials generally considered a weapon.

- f. unlawful possession, selling, dispensing, or use of a controlled substance, alcoholic liquor, or a substance represented to be a controlled substance, or being under the influence of drugs or alcohol.
- g. public indecency as defined by 28-401 NEB. REV. STATS., if the student is at least 12 years old
- h. sexually assaulting or attempting to sexually assault any person, if a complaint has been filed by a prosecutor in a competent jurisdiction alleging that the student has sexually assaulted or attempted to sexually assault any person, including sexual assaults or attempted sexual assaults which occur off school grounds, not at an educational function event. For purposes of this policy, sexual assault shall mean sexual assault in the first degree and sexual assault in the second degree as defined by Nebraska Statutes or as those statutes may from time to time hereafter be amended.
- i. engaging in other activity forbidden by law which activity constitutes a danger to other students or interferes with school purposes.
- j. repeated violations of any established rule if such violation constitutes a substantial interference with school purposes. It is the intent of the School District that alternatives to suspension or expulsion be imposed against a student who is truant, tardy, or otherwise absent from required school activities. (Legal Ref.: 79-4, 177-4, 180, L.B. 1250 (1994)).

In the event an administrative decision is made to discipline a student by a long-term suspension, expulsion, or mandatory reassignment, the following procedure shall be followed. On the date of the decision a written charge and the summary of the evidence supporting the charge will be filed with the Superintendent. The school shall, within two (2) days of the decision, send written notice by Registered or Certified Mail to the student and the student's parents or guardian informing them of the rights established under the Student Discipline Act.

The notice will include:

- a. The rule or standard of conduct allegedly violated and the acts of the student alleged to constitute cause for long-term suspension, expulsion, or mandatory reassignment, including a summary of the evidence to be presented against the student.
- b. The penalty, if any, which the Principal has recommended and the charge and any other penalty to which the student may be subject.
- c. A statement that before long-term suspension, expulsion, or mandatory reassignment for disciplinary purposes can be invoked, the student shall have the right to a hearing, upon request, on the specified charges.
- d. A description of the hearing procedures, along with procedures for appealing any decision rendered at the hearing.
- e. A statement that the Principal or legal counsel for the school, the student, the student's parent or the student's representative or guardian, shall have the right to examine the student's academic and disciplinary records and any affidavits to be used at the hearing concerning the alleged misconduct and the right to know the identity of witnesses to appear at the hearing and the substance of their testimony.

- f. A form shall be sent on which the student or student's guardian may request a hearing with instructions that the form must be signed and delivered to the Principal or Superintendent by Registered or Certified Mail, within five (5) days following receipt of the written notice of the administrative decision to invoke the above disciplinary measures.

When a notice of intent to discipline a student by long-term suspension, expulsion, or mandatory reassignment is filed with the Superintendent, the student may be suspended by the Principal until the date of the long-term suspension, expulsion, or mandatory reassignment takes effect if no hearing is requested, or if a hearing is requested, that date the hearing examiner makes the report of his or her findings and a recommendation of the action to be taken to the Superintendent, if the Principal determines that the student must be suspended immediately to prevent or substantially reduce the risk of interference with an educational function, school proposed function or a personal injury to the student, other students, school employees, or school volunteers.

If a hearing shall be requested within five (5) school days of receipt of the notice, the Principal shall appoint a hearing examiner, who shall, within two (2) days of being appointed, give written notice to the Principal, the student, and the student's parents or guardian of the time and place of the hearing. The hearing will be scheduled within a period of five (5) days school days after it is requested but such time may be changed by the hearing examiner for good cause. If a hearing is not requested by the student or the student's parent or guardian within five (5) school days following receipt of the written notice, the punishment recommended and the charge by the Principal, or his designee, shall automatically go into effect upon the fifth school day following receipt of the written notice by the student or parent.

If a hearing is requested more than five (5) days following the receipt of the written notice, the punishment recommended in the charge by the Principal or his or her designee shall automatically go into effect upon the fifth school day following the receipt of the written notice.

If a hearing shall be requested after five (5) school days, but not later than thirty (30) calendar days following the actual receipt of a written notice, the hearing shall be held, but the imposed punishment shall continue in effect pending final determination.

Any hearing conducted under this policy shall be attended by the hearing examiner, the student, the student's parent or guardian, the student's representative, if any, and the counsel for the School Board of Education. Witnesses shall be present only when they are giving information at the hearing and the student may be excluded in the discretion of the hearing examiner at times when the student's psychological evaluation or emotional problems are being discussed. The student may speak in his or her own defense and may be questioned on his testimony, but he may choose not to testify and in such case he shall not be threatened with punishment nor be later punished for refusal to testify.

The School Board, acting through the Principal, may cause legal counsel to be present, either for the purpose of acting as the designee of the Principal or for the purpose of

advising the hearing examiner in the conduct of the hearing. Any attorney who acts as the designee of the Principal in presenting the school's case against the student shall not advise the hearing examiner of the conduct of the hearing or later advise administrators or Board members on the conduct of any appeal.

At the hearing, the Principal shall present to the hearing examiner statements, in affidavit form, of any persons having information about the student's conduct and the student's records, but not unless such statement and records have been made available to the student, the student's parent or guardian, or representative prior to the hearing. The information contained in such records shall be explained and interpreted prior to or at the hearing to the student, parents or guardian of the student, or the student's representative, at their request, by appropriate school personnel.

The student or the student's parent, guardian, or representative, as well as the Principal or the hearing examiner, may ask witnesses to testify at the hearing. Such testimony shall be under oath and the hearing examiner shall be authorized to administer the oath. The hearing examiner shall make reasonable effort to assist the student, the student's parent, guardian, or representative in obtaining the attendance of witnesses. Any person giving evidence by written statement or in person at a hearing shall be given the same immunity from liability as a person testifying in a court case. Proceedings of the hearing shall be recorded at the expense of the school district.

When one or more students is charged with violating the same rule and having acted in concert when the facts are substantially the same for all such students, a single hearing may be conducted for such students as a group if the hearing examiner believes that a single hearing is not likely to result in confusion and that no student will have his interests substantially prejudiced by a single hearing. If, during the conduct of the hearing, the hearing examiner finds that a student's interest will be substantially prejudiced by a group hearing or that the hearing is resulting in confusion, he may order a separate hearing for any student.

A report will be made by the hearing examiner of his findings and a recommendation of the action to be taken which report shall explain, in terms of the needs of both the student and the School Board, the reasons for the particular action recommended. Such recommendation may range from no action, through the entire field of counseling, to long-term suspension, expulsion or mandatory reassignment. A review shall be made of the hearing examiner's report by the administrator, who may change, revoke, or impose the sanction recommended by the hearing examiner, but shall not impose a sanction more severe than that recommended by the hearing examiner. The finding and recommendations of the hearing examination, the determination by the administrator and any determination on appeal to the governing body shall be made solely on the basis of the evidence presented at the hearing or, in addition, any evidence presented on appeal. Written notice of the finds and recommendations of the hearing examiner and the determination of the administrator shall be made by Certified or Registered Mail, or by personal delivery, to the student, the student's parent or guardian. Upon receipt of such

written notice by the student and parents or guardian, the determination of the administrator shall take immediate effect.

Except in the cases of a student who is expelled for the knowing and intentional use of force in causing or attempting to cause personal injury, or the knowing and intentional possession, use or transmission of a firearm or other dangerous weapon, expulsion of a student shall be for a period not to exceed the remainder of the semester in which it took effect, unless the misconduct occurred within ten school days prior to the end of the first semester, in which case the expulsion shall remain in effect through the second semester. If the misconduct occurred within ten school days prior to the end of the first semester, the expulsion shall remain in effect for summer school and the first semester of the following school year. All expulsions which are proposed to be continued during the first semester of the school year from the prior year shall be reviewed by the hearing examiner after providing notice of the review to the student and the student's parents or guardian. This review shall be limited to newly discovered evidence or evidence of changes in the student's circumstances occurring since the original hearing. This review may result in a recommendation that the student be re-admitted to school.

In the event that a student is to be expelled for the knowing and intentional use of force or the knowing and intentional possession, use or transmission of a firearm or other dangerous weapon, the expulsion shall be for a period not less than a year (Federal Regulation).

The student or the student's parent or guardian may, within seven (7) days following receipt of the written notice of determination of the Superintendent appeal the administrator's determination to the School Board or Board of Education by a written request which shall be filed with the Secretary of the Board or with the Superintendent. A hearing will be held before the Board within ten (10) days after it is requested. The appeal shall be made on the record, except that new evidence may be admitted to avoid a substantial threat of unfairness, and that such new evidence shall be recorded as provided. In the event a hearing is scheduled for a particular time within the time framework described, that time may be changed upon the mutual agreement of the parties.

After examining the record and taking new evidence, if any, the Board of Education may withdraw to deliberate privately upon the record and new evidence. Any deliberation shall be held in the presence only of Board members in attendance at the appeal proceeding, but may be held in the presence of legal counsel who has not previously acted as the designee of the administrator in presenting the school's case before the hearing examiner. If any questions arise during the deliberations which require additional evidence, the Board may reopen the hearing to receive such evidence, subject to the right of all parties to be present. The Board may alter the administrator's disposition of the case if it finds the decision to be too severe, but may not impose a more severer sanction. The final action of the Board shall be evidenced by personally delivering or mailing by Certified Mail, copy of the Board's decision to the student and his parent or guardian.

Any person aggrieved by the final decision shall be entitled to judicial review under Section 79-4201 to 79-4205 of the Nebraska statutes.

Criminal Violations: To the extent that the Principal recognizes that any conduct engaged in by a student subject to disciplinary proceedings violates the Nebraska Criminal Code, the Principal shall report the violation to appropriate law enforcement authorities.

(Legal Reference: The Student Discipline Act, LB 1250 (1994), NEB.REV.STATS. 79-4,170 to 79-4,204.)

STUDENT ABSENCES/TRUANCY:

The Board of Education believes it is the shared responsibility of the parent or guardian, the student and the school to establish and maintain desirable habits of punctuality and attendance. Parents or guardians are expected to account for student absences. The building administrator shall have the authority to determine authorized absences and establish necessary procedures for recording and validating such absences.

If the Superintendent, any teacher, or member of the Board of Education becomes aware that a student is absent from school in violation of the state law governing compulsory attendance (NEB. REV. STATS.79-201), or the policies of this District, including Policy 503.04 Addressing Barriers To Attendance, such person shall report the violation to the Superintendent of Schools, if there is a school attendance officer, otherwise to the County Superintendent of Schools, within three days of the violation. Upon receipt of such a report, the Superintendent shall immediately direct the attendance officer to initiate an investigation. If it is determined that a student is in fact truant, then school officials shall undertake every reasonable effort to cure the student's behavior. Such efforts shall include the following:

1. One or more meetings between a school attendance officer, social worker, or other person designated by the administration, the child's parent or guardian and the child, if necessary, to report and to attempt to solve the truancy, unless it is determined that the parent or guardian refuses to participate in such meetings;
2. Educational counseling to determine whether curriculum changes would help solve the truancy problem including but not limited to, enrolling the child in an alternative education program that meets the specific educational and behavioral needs of the child;
3. An educational evaluation, which may include a psychological evaluation, to assist in determining the specific condition, if any, contributing to the truancy problem, supplemented by specific efforts of the school to help remedy any condition diagnosed; and
4. An investigation of the truancy problem by the school social worker, or if the school does not have a school social worker, another person designated by the administration, to identify conditions which may be contributing to the truancy problem. If services for the child and his or her family are determined to be needed, the school social worker or other person performing the investigation shall meet with the parent or guardian and the child to discuss any referral to appropriate community

agencies for economic service, family or individual counseling, or other services required to remedy the conditions that are contributing to the truancy problem.

Legal Reference: Neb. Statute 28-1204.04
 79-245 et seq.
 Goss v. Lopez, 419 U.S. 565 (1975).
 Wood v. Strickland, 420 U.S. 308 (1975)
 20 U.S.C. §§ 1400 et seq. (Individuals with Disabilities
 Education Act)
 34 C.F.R. §§ 104.1 et seq.
 34 C.F.R. §§ 300 et seq.

Cross Reference: 504 Student Rights and Responsibilities
 505 Student Discipline

Adopted- 7/16

Reviewed-

Revised-