

# REGULATION

## NUTLEY BOARD OF EDUCATION

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### R 5610 SUSPENSION PROCEDURES

#### A. Short-Term Suspensions

1. In each instance of a short-term suspension, the Building Principal or designee, shall assure the rights of a pupil suspended for ten or fewer consecutive school days by providing for the following:
  - a. As soon as practicable, oral or written notice of charges to the pupil.
    - (1) When charges are denied, an explanation of the evidence forming the basis of the charges shall also be provided.
  - b. An informal hearing prior to the suspension in which the pupil is given the opportunity to present the pupil's side of the story regarding the actions leading to the short-term suspension and the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2. and 5.
    - (1) The informal hearing shall be conducted by the Building Principal or designee;
    - (2) To the extent that a pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the pupil may be immediately removed from the pupil's educational program and the informal hearing shall be held as soon as practical after the suspension;
    - (3) The informal hearing should take place even when a school staff member has witnessed the conduct forming the basis of the charge; and
    - (4) The informal hearing and the notice given may take place at the same time.
  - c. Oral or written notification to the pupil's parent(s) or legal guardian(s) of the removal from



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the pupil's educational program prior to the end of the school day on which the Building Principal or designee makes the decision to suspend the pupil, which shall include an explanation of:

- (1) The specific charges;
  - (2) The facts on which the charges are based;
  - (3) The provision(s) of the pupil code of conduct the pupil is accused of violating;
  - (4) The pupil's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.6; and
  - (5) The terms and conditions of the suspension.
- d. Appropriate supervision of the pupil while waiting for the pupil's parent(s) or legal guardian(s) to remove the pupil from school during the school day; and
- e. Academic instruction, either in school or out of school, that addresses the Core Curriculum Content Standards, pursuant to N.J.A.C. 6A:8-3.1, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.
- (1) Services shall be provided within five school days of the suspension.
  - (2) Educational services provided to a pupil with a disability shall be provided consistent with the pupil's Individualized Education Program in accordance with N.J.A.C. 6A:14.
  - (3) At the completion of a short-term suspension, the district Board of Education shall return the general education pupil to the general education program.
2. The suspending Building Principal shall immediately report the suspension to the Superintendent, who is



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required to report it to Board of Education at its next regular meeting, pursuant to N.J.S.A. 18A:37-4.

3. A Board may deny the pupil participation in extracurricular activities, school functions, sports, or graduation exercises as disciplinary sanctions, where such measures are designed to maintain the order and integrity of the school environment.
4. For a pupil with a disability, the provisions set forth in this section shall be provided in addition to all procedural protections set forth in N.J.A.C. 6A:14.

### B. Long-Term Suspensions

1. In each instance of a long-term suspension, the Building Principal or designee shall assure the rights of a pupil suspended for more than ten consecutive school days by providing the following:
  - a. Immediate notification to the pupil of the charges, prior to the pupil's removal from school;
  - b. An informal hearing prior to the suspension in which the pupil is given the opportunity to present the pupil's side of the story regarding the pupil's actions leading to the long-term suspension and the school district's actions taken pursuant to N.J.A.C. 6A:16-7.1(c)2 and 5;
  - c. Immediate notification to the pupil's parent(s) or legal guardian(s) of the pupil's removal from school;
  - d. Appropriate supervision of the pupil while waiting for the pupil's parent(s) or legal guardian(s) to remove the pupil from school during the school day;
  - e. Written notification to the parent(s) or legal guardian(s) by the Superintendent or designee within two school days of the initiation of the suspension, stating:
    - (1) The specific charges;
    - (2) The facts on which the charges are based;



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- (3) The pupil's due process rights, pursuant to N.J.A.C. 6A:16-7.2 through 7.6; and
- (4) That further engagement by the pupil in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the pupil's right to a free public education, in the event that a decision to expel the pupil is made by the Board, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.5.
  - (a) The Board shall request written acknowledgement of the notification of the provisions of B.1.e.(4) above from the parent(s) or legal guardian(s) and the pupil subsequent to the removal from the pupil's educational program, pursuant to N.J.A.C. 6A:16-7.3.
- f. A list of witnesses and their statements or affidavits, if any, no later than five days prior to the formal hearing, pursuant to B.1.j. below;
- g. A pupil with a disability, a manifestation determination, pursuant to N.J.A.C. 6A:14-2.8 and the Federal regulations;
- h. Information on the right of the pupil to secure an attorney and legal resources available in the community identified pursuant to N.J.A.C. 6A:16-7.1(c)8;
- i. Educational services, either in school or out of school, that are comparable to those provided in the public schools for pupils of similar grades and attainments, pursuant to N.J.S.A. 18A:38-25, which may include a public education program provided in accordance with the provisions of N.J.A.C. 6A:16-9 or 10.



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- (1) The services shall be provided within five school days of the suspension.
  - (2) The Board shall make decisions regarding the appropriate educational program and support services for the suspended general education pupil, at a minimum, based on the following criteria:
    - (a) A behavioral assessment or evaluation including, but not limited to, a referral to the Child Study Team, as appropriate;
    - (b) The results of any relevant testing, assessments or evaluations of the pupil;
    - (c) The pupil's academic, health, and behavioral records;
    - (d) The recommendation of the Superintendent, Building Principal, or other relevant school or community resource;
    - (e) Considerations of parental input; or
    - (f) Consultation with the Intervention and Referral Services Team, in accordance with N.J.A.C. 6A:16-8, as appropriate.
  - (3) Educational services provided to a pupil with a disability shall be provided consistent with the pupil's Individualized Education Program, in accordance with N.J.A.C. 6A:14.
- j. A formal hearing before the Board, which, at a minimum, shall:



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- (1) Be conducted by the Board or delegated by the Board to a Board committee, a school administrator or an impartial hearing officer for the purpose of determining facts or making recommendations.
    - (a) The Board as a whole shall receive and consider either a transcript or detailed report on such hearing before taking final action.
  - (2) Include the opportunity for the pupil to:
    - (a) Confront and cross-examine witnesses, when there is a question of fact; and
    - (b) Present his or her own defense and produce oral testimony or written supporting affidavits.
  - (3) Take place no later than thirty calendar days following the day the pupil is suspended from the general education program;
  - (4) Not be subject to the provisions of the "Open Public Meetings Act," pursuant to N.J.S.A. 10:4-6; and
  - (5) Result in a decision by the Board, which at a minimum, shall be based on the preponderance of competent and credible evidence.
- k. A written statement to the pupil's parent(s) or legal guardian(s) of the Board's decision within five school days after the close of the hearing that includes, at a minimum:
- (1) The charges considered;
  - (2) A summary of the documentary or testimonial evidence from both the pupil and the administration that was brought before the district Board of Education at the hearing;



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- (3) Factual findings relative to each charge and the Board's determination of each charge;
  - (4) Identification of the educational services to be provided to the pupil pursuant to B.1.i. above;
  - (5) The terms and conditions of the suspension; and
  - (6) The right to appeal the Board's decision regarding the pupil's general education program to the Commissioner of Education in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.
- l. Immediate return to the general education program if at any time it is found that the general education pupil did not commit the offense;
  - m. For a pupil with a disability found not to have committed the offense, the pupil's program shall be determined in accordance with the provisions of N.J.A.C. 6A:14.; and
  - n. At the completion of a long-term suspension, the Board shall return the general education pupil to the general education program.
2. Any appeal of the Board's decision regarding the general education pupil's program shall be made to the Commissioner of Education, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.
  3. Suspension of general education pupils shall not be continued beyond the Board's second regular meeting following the suspension, unless the Board so determines, pursuant to N.J.S.A. 18A:37-5.
    - a. The Board shall determine whether to continue the suspension, pursuant to B. above, based on the following criteria:
      - (1) The nature and severity of the offense;



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- (2) The Board's removal decision;
  - (3) The results of any relevant testing, assessments or evaluations of the pupil; and
  - (4) The recommendation of the Superintendent, Principal or Director of the alternative education program or home or other out-of-school instruction program in which the pupil has been placed.
4. When the Board votes to continue the suspension of a general education pupil, the Board, in consultation with the Superintendent, shall review the case at each subsequent Board meeting for the purpose of determining:
  - a. The status of the pupil's suspension;
  - b. The appropriateness of the current educational program for the suspended pupil; and
  - c. Whether the suspended pupil's current placement, pursuant to B.1.i. above, should continue or whether the pupil should return to the general education program.
5. When the Board votes to continue the suspension of a general education pupil, the Board, in consultation with the Superintendent, shall make the final determination on:
  - a. When the pupil is prepared to return to the general education program;
  - b. Whether the pupil shall remain in an alternative education program or receive home or other in-school or out-of-school instruction, based on the criteria set forth in B.3.a.(1) through (4) above; or
  - c. Whether to initiate expulsion proceedings in accordance with N.J.S.A. 18A:37-2, N.J.A.C. 6A:16-7.5 and Policy 5620.





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6. The Board shall provide a general education pupil suspended under N.J.A.C. 6A:16-7.3 with an appropriate educational program or appropriate educational services, based on the criteria set forth under B.1.i.(2) above, until the pupil graduates from high school or reaches the age of twenty, whichever comes first.
  - a. The educational program shall be consistent with the provisions of N.J.A.C. 6A:16-9.2 and 10.2 and 6A:14-2 and 4.3, whichever is applicable; or
  - b. The educational services provided, either in school or out of school, shall be comparable to those provided in the public schools for pupils of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.
  
7. For a pupil with a disability who receives a long-term suspension, the Board shall proceed in accordance with N.J.A.C. 6A:14 in determining or changing the pupil's educational placement to an interim or alternate educational setting.
  - a. All procedural protections set forth in N.J.A.C. 6A:14 and N.J.A.C. 6A:16-7.3 shall be afforded to each pupil with a disability who is subjected to a long-term suspension.
  - b. All decisions concerning the pupil's educational program or placement shall be made by the pupil's Individualized Education Program team.
  - c. The provisions of B.2. through B.6. above shall not apply to pupils with disabilities.

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