

REGULATION

NUTLEY SCHOOL DISTRICT

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R 5620 Expulsion Procedures

A. Notice of Recommended Expulsion

1. A recommendation for the expulsion of a pupil will be made in strict compliance with law and Policy No. 5620 and only when all other means of discipline have been exhausted.
2. Any recommendation for expulsion will be made by the Principal to the Superintendent.
3. The pupil for whom expulsion is recommended shall be notified within ten working days of the Superintendent's receipt of the recommendation. Notice will be in writing and will include:
 - a. The recommendation for expulsion and a statement that expulsion means the termination of the pupil's right to a free public education,
 - b. The reason(s) for the recommendation, a
 - c. A directive that the classified or nonclassified pupil report to the Child Study Team for evaluation, at the time and place arranged by the Child Study Team.

B. Child Study Team Report

1. Any report of the Child Study Team will be considered by the Superintendent and by the Board before it renders an expulsion decision. In the event a pupil is classified as a pupil with a disability, the pupil may only be expelled in accordance with the provisions of the Individual with Disabilities Act (IDEA), N.J.S.A. 18A: 37-1 et seq., and N.J.A.C. 6A: 14 et seq.



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C. Board Expulsion Hearing

1. A pupil's shall be provided a formal expulsion hearing by the Board.
 - a. The hearing will be scheduled at a time and place convenient to the pupil and his/her parent(s) or legal guardian(s).
 - b. The hearing shall be held no fewer than five school days nor more than twenty school days after the regular education program of the district.
A hearing
 - (1) May be held sooner if circumstances warrant and the interests of the pupil would not be unduly prejudiced by such haste, or
 - (2) Shall be delayed pending the Board's receipt of the Child Study Team report or upon the request of the pupil's parent/legal guardian for an extension of time.
2. The pupil may decline to request a hearing.
 - a. A pupil's decision to decline a formal Board hearing should be in writing and signed by both the pupil and parents. The signatures should be witnessed.
 - b. A pupil who does not avail him or herself of the opportunity to request a formal hearing will be construed to have waived his or her right to the hearing. Constructive waiver will not be presumed before the passage of a considerable period of a considerable period of time, to be determined on a case by case basis, since it operates to foreclose the pupil's rights.

D. Notice

The pupil and his or her parent or legal guardian shall be given written notice of a pending hearing as soon as possible after the time and place have been set by the Board. Notice will include:

1. The time and place of the hearing;
2. The rule (s) alleged to have been violated;



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3. The charges against the pupil;
4. A summary of the evidence against the pupil;
5. The names of the witnesses;
6. A full description of the proposed alternative educational program if the pupil cannot be readmitted to school pending the hearing, and the hearing will not take place within 10 school days of the pupils removal from the regular education program;
7. A statement of the pupil's and parents' or legal guardians' right to review the pupil's records and written statements about the alleged misconduct;
8. A statement of the pupil's and parents' or legal guardians' right to request a delay in the hearing of up to five school days;
9. A statement of the pupil's entitlement to the following hearing rights:
 - a. Right to counsel,
 - b. Right to a translator provided by the Board,
 - c. Right to appear in his or her own behalf and to permit his or her parent to appear,
 - d. Right to produce witnesses and present evidence on his or her behalf,
 - e. Right to confront and to cross examine anyone who may have evidence against him or her, and
 - f. Right to a transcript or tape recording of the hearing.



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E. Conduct of Hearing

1. The pupil who has requested a Board hearing shall notify the Board within a reasonable time after receipt of the notice of his or her intention to attend. The pupil shall submit to the Board:
 - a. The names of those staff members the pupil may wish to call as witnesses, and
 - b. The pupil's need, if any, for a translator.
2. Hearings will be held privately, except that the Board may grant the request of the pupil for a public hearing.
3. Any hearing in progress may be adjourned and continued within a reasonable period of time.
4. The Board President, or the Board Vice-President in the absence of the Board President, shall act as the presiding officer. The presiding officer:
 - a. Shall call the hearing to order and recognize the parties before the Board and their representatives, if any;
 - b. May appoint a recorder and direct the recording of the proceedings;
 - c. Shall state the charges set forth in the notice to the party who requested a hearing;
 - d. Shall summarize the action taken on the matter at preliminary hearings, if any;
 - e. Shall require the Superintendent or designee to substantiate the charges made by introducing evidence and witnesses;
 - f. Where the truth of any allegation important to sustain the charge is at issue, shall require the testimony of one or more witness and/or the submission of evidence regarding those allegations;



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- g. Shall permit the pupil to cross-examine any witness so testifying and examine any evidence so submitted;
 - h. Shall offer the pupil a full and fair opportunity to submit evidence and present witnesses to refute or explain the charges brought against him or her;
 - i. May limit or exclude evidence or testimony that is not relevant or material to the issue or where its probative value is outweighed by its tendency to be confusing or prejudicial or overly time consuming;
 - j. May elicit such evidence and testimony as the presiding officer believes may be useful or necessary to find facts;
 - k. May permit questioning of witnesses by panel members;
 - l. Shall permit the testimony of Child Study Team members and/or the entry of the report of the Child Study Team;
 - m. Shall prepare, in consultation with the Board secretary, minutes of the hearing, which shall include;
 - (1) The notice of the hearing,
 - (2) The charges considered and the authority of the Board to conduct the hearing, and
 - (3) A summary of the evidence and testimony brought forward by each party; and
 - n. May adjourn the hearing where fairness or exigent circumstances dictate and set a time and place for the continued hearing.
- F. Board's Determination
- 1. The pupil shall have an opportunity to review the presiding officer's report and append to it his or her objections, if any, before the report is distributed to absent Board members or is used to document the hearing in an appeal.



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2. A Board member who has not participated in the hearing may not participate in the decision unless he or she has received and read the report of the presiding officer.
3. Where all members of the Board have been present at the hearing or after all absent members have been fully informed of the proceedings, the Board may render a decision on the issues presented at the hearing. No official action may be taken at any meeting other than a public meeting. The Board's finding of fact shall be based on a preponderance of the evidence offered.
4. The decision of the Board will be rendered in writing and will set forth
 - a. The Board's jurisdiction;
 - b. The issues presented;
 - c. The charges made and sustained or dismissed;
 - d. The finding of fact on which the Board's decision was based;
 - e. The report and recommendation of the Child Study Team;
 - f. If the pupil is educationally disabled, a statement that his or her offensive behavior was not caused by the pupil's disabling condition or by a program inappropriate to the pupil's needs;
 - g. The alternate educational program offered the pupil, if any, and the pupil's refusal to participate in the program so offered, and
 - h. The Board's final order.
5. Copies of the decision will be provided to the pupil, the pupil's parent or legal guardian, and the pupil's representative.



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G. Alternative Educational Program

A pupil that has been appropriately expelled from the district's regular education program in accordance with the provisions of the Individual with Disabilities ACT (IDEA), N.J.S.A. 18A:37-1 et seq., and alternative education program until the pupil graduates from high school or reaches their twentieth birthday, whichever comes first.

H. Appeal

The pupil shall be informed of his or her right to appeal the Board's decision to the Commissioner of Education within ninety days of the meeting at which the decision was made.

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