

Adopted: April 23, 2014
Revised: November 30, 2016, Nov. 30, 2022

**BLUESKY CHARTER SCHOOL POLICY No. 5.4.5
PUPIL FAIR DISMISSAL PROCESS**

I. PURPOSE

In order to maximize learning and create a positive classroom environment for all students, a student may need to be removed from class for a period of time in order to redirect learning. Therefore, BlueSky Charter School may remove a student from class, including a student with a disability, in compliance with Minnesota Pupil Fair Dismissal Act.

II. POLICY STATEMENT

It is the policy of BlueSky Charter School to fully comply with the Minnesota Pupil Fair Dismissal Act.

III. DEFINITIONS

- A. "Removal from class" and "removal" mean any actions taken by a teacher, Charter School Director, or other school 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.
- B. "Dismissal" means the denial of the current educational program to any student, including exclusion, expulsion and suspension. Dismissal does not include removal from class.
- C. "Suspension" means an action by the school administration, under rules promulgated by the School Board, prohibiting a student from attending school 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 Charter School Director with a reason for the longer term of suspension. This definition does not apply to dismissal for one (1) school day or less, except as may be provided in federal law for a student with a disability.
- D. "Expulsion" means a school 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 school board.
- E. "Exclusion" means an action taken by the school 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 school board.

IV. REMOVAL OF STUDENT 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.
- B. A student must be removed from class immediately if the student engages in assault or violent behavior. Assault includes:
 - 1. An action undertaken by the student with intent to cause fear in another of immediate bodily harm or death; or
 - 2. An action where the student intentionally inflicts or attempts to inflict bodily harm upon another.
- C. Other grounds for removal include:
 - 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 school employees, the student or other students, or the property of the school;
 - 3. Willful violation of any school 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.
- D. Removal of a student from class 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.
- E. If a student is removed from class more than ten (10) times in a school year, the school 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.
- F. Procedures for Removal from Class. The authority to remove a student from class rests with the classroom teacher. If removal is for part of one class period simply to provide the student with some time to avoid problems, the formal procedures of this section need not be followed. If the removal is for an entire period or more, the following procedures must be followed:

1. The teacher should send the student to the Executive Director's office or another area designated by the Executive Director. The Executive Director or designee will provide custodial care of the student.
2. The teacher should provide the Director or Director's designee the following information:
 - a. The reason for the removal;
 - b. Length of removal; and
 - c. Whether there is reason to consider the need for additional assessment or review of the IEP for a special education student, or to consider the need for identifying and addressing chemical abuse problems of a student while on school premises.
3. The teacher should provide the student and parent the reason for the removal.

V. DISMISSAL OF STUDENT FROM CLASS

- A. The school shall not deny due process or equal protection of the law to any student involved in a dismissal preceding that may result in suspension, exclusion or expulsion.
- B. The school 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.
- C. The school 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.
- D. Grounds for Dismissal. 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 school 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 school personnel to perform their duties, or school sponsored extracurricular activities; or
 3. Willful conduct that endangers the student or other students, or surrounding persons, including school employees, or property of the school.

VI. MEETING WITH PARENTS

If a student's total days of removal from school exceed ten (10) cumulative days in a

school year, the school shall make reasonable attempts to convene a meeting with the student and the student's parent or guardian prior to removing the student from school and, with the permission of the parent or guardian, arrange for a mental health screening for the pupil. The district is not required to pay for the mental health screening. 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 pupil assessed or diagnosed to determine whether the pupil needs treatment for a mental health disorder.

VII. SUSPENSION PROCEDURES

- A. Each suspension action may include a readmission plan. The plan shall include, where appropriate, a provision for implementing alternative educational services upon readmission and may not be used to extend the current suspension. The school 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 school is in the process of initiating an expulsion, in which case the school administration may extend the suspension to a total of fifteen (15) days.
- B. All suspension 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, and school policy.
- C. The school 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 school 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.

VIII. EXPULSION AND EXCLUSION PROCEDURES

- A. All expulsion and exclusion proceedings will be held pursuant to and in accordance with the provisions of the Minnesota Pupil Fair Dismissal Act, Minnesota Statutes sections 121A.40-121A.56, and school policy.
- B. 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.
- C. The student and parent or guardian shall be provided written notice of the school 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, Minnesota Statutes sections 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 school 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).
- D. 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 school district, student, parent, or guardian.
 - E. 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.
 - F. The school district shall record the hearing proceedings at district expense, and a party may obtain a transcript at its own expense.
 - G. 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 school 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 school board may appoint an attorney to represent the school district in any proceeding.
 - H. 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.
 - I. All expulsion or exclusion hearings shall take place before and be conducted by an independent hearing officer designated by the school 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.
 - J. At a reasonable time prior to the hearing, the student, parent or guardian, or authorized representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the proposed dismissal action may be based.
 - K. The student, parent or guardian, or authorized representative, shall have the right to compel the presence of any school 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 school district.
 - L. The student, parent or guardian, or authorized representative, shall have the right to present evidence and testimony, including expert psychological or educational testimony.

- M. The student cannot be compelled to testify in the dismissal proceedings.
- N. The hearing officer shall prepare findings and a recommendation based solely upon substantial evidence presented at the hearing, which must be made to the school board and served upon the parties within two (2) days after the close of the hearing.
- O. The school 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 school 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 school 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.
- P. A party to an expulsion or exclusion decision made by the school board may appeal the decision to the Commissioner within twenty-one (21) calendar days of school board action pursuant to Minnesota Statutes section 121A.49. The decision of the school board shall be implemented during the appeal to the Commissioner.
- Q. The school 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.
- R. The school 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.
- S. Whenever a student fails to return to school within ten (10) school days of the termination of dismissal, a school 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 school district.

IX. ADMISSION OR READMISSION PLAN

- A. A school 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, require parental involvement in the admission or readmission process, and may indicate the consequences to the student of not improving student conduct. The readmission plan must not obligate parents to provide a sympathomimetic medication for their child as a condition of readmission.

X. STUDENTS WITH DISABILITIES

Students who are currently identified as disabled under 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.

A. Suspension

1. Where a student with a disability has been suspended for more than five (5) consecutive days, or has accumulated more than ten (10) days of dismissal over the course of the school year, and that suspension does not involve a recommendation for expulsion or exclusion or other change of placement under federal law, relevant members of the child's individualized education program 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 individualized education program. That meeting must occur as soon as possible, but no more than ten days after the sixth consecutive day of suspension or the tenth cumulative day of suspension has elapsed.
2. The school administration shall implement alternative educational services when the suspension exceeds five (5) days.
3. The notice requirements for suspension of a student with a disability do not apply to a dismissal of one day or less.

B. Expulsion and Exclusion. Before initiating an expulsion or exclusion under Minnesota Statutes section 121A.40 to 121A.56, the school, relevant members of the child's individualized education program team, and the child's parent shall, consistent with federal law, determine whether the student's behavior was caused by or had a direct and substantial relationship to the child's disability and whether the child's conduct was a direct result of a failure to implement the child's individualized education program. When a child with a disability who has an individualized education program is excluded or expelled under Minnesota Statutes section 121A.40 to 121A.56 for misbehavior that is not a manifestation of the child's disability, the school shall continue to provide special education and related services during the exclusion or expulsion.

XI. STUDENT DISCIPLINE RECORDS

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

XII. REVIEW

The principal or other person having general control and supervision of the school, and representatives of parents, students, and staff in a school building shall confer at

least annually to review the discipline policy and to assess whether the policy has been enforced. A school board must conduct an annual review of the districtwide discipline policy.

Legal References: Minn. Stat. §13 (Government Data Practices)
Minn. Stat. §§121A.40-121A.56 (Pupil Fair Dismissal Act)
Minn. Stat. §§121A.60-121A.61 (Definitions; Discipline and Removal of Students from Class) (including 2016 amendments)