

A primary responsibility of the Lordsburg Municipal Schools and its professional staff shall be to instill in students an appreciation of our representative form of government, the rights and responsibilities of the individual, and the legal processes whereby necessary changes are brought about.

The school district is a community, and the rules and regulations of a school are the laws of that community. All persons enjoying the rights of citizenship are subject to the laws of their community. Each right carries with it a corresponding obligation.

The right to attend public school is not absolute. It is conditional on each student's acceptance of the obligation to abide by the lawful rules of the school community until and unless the rules are changed through established processes.

Teachers, administrators, and other school employees also have rights and duties. Teachers are required by law to maintain a suitable environment for learning in their classes and to assist in maintaining school order and discipline. Administrators are responsible for maintaining and facilitating the educational program by ensuring an orderly, safe environment in the public schools. In discharging their duties, all school employees have the right to be free from intimidation or abuse and to have their lawful requests and instructions followed by students.

The District has both the authority and responsibility to ensure that suitable rules of student conduct and appropriate disciplinary processes are established.

Nothing in this policy shall be held to affect the due process rights of school employees or their use of any local school district grievance procedure. This regulation does not address employment disputes.

OBJECTIVE

To provide a comprehensive framework within which the District can carry out its educational mission and exercise authority and responsibility to provide a safe environment for student learning, and further to provide students and parents with an understanding of the basic rights and requirements necessary to effectively function in the educational community is the objective.

DEFINITIONS

"Administrative authority" means the local school district superintendent, a principal, or a person authorized by either to act officially in matters involving school discipline or the maintenance of order. The term may include school security officers, but only to the extent of their authority as established under written local school board policies.

"Criminal acts" are acts so defined in Section 32A-2-3A, NMSA 1978 of the Delinquency Act.

“Detention” means requiring a student to remain inside or otherwise restricting his or her liberty at times when other students are free for recess or to leave school.

“Disciplinarian” means a person or group authorized to impose punishment after the facts have been determined. Under these rules, the Hearing Authority shall also be the Disciplinarian unless otherwise provided for good cause by the Superintendent.

“Disruptive conduct” means willful conduct which:

Materially in fact disrupts or interferes with the operation of the public schools or the orderly conduct of any public school activity, including individual classes; or

Leads an administrative authority reasonably to forecast that such disruption or interference is likely to occur unless preventive action is taken.

“Expulsion” means the removal of a student from attendance at all schools of the District, either permanently or for an indefinite time exceeding 10 school days.

“Gang-related activity” means conduct prohibited by the District’s policy on Gang Activity (729).

“Hearing Authority” means the person who presides at the formal hearing, hears the evidence, decides culpability, and determines punishment. The Superintendent and Assistant Superintendent shall serve as Hearing Authority on a rotating or alternating basis in all formal hearings, except in instances in which the administrator who would otherwise serve as Hearing Authority was directly involved in, or witnessed, the incident(s) in question, has prejudged disputed facts, or is actually biased for or against any person who will actively participate in the hearing. In such cases the other administrator eligible to serve as Hearing Authority shall do so.

“Immediate removal” means the removal of a student from school for one school day or less under emergency conditions and without a prior hearing.

“In-school suspension” means suspending a student from one or more regular classes while requiring the student to spend the time in a designated area at the same school or elsewhere.

“Legal limits” include the requirements of the federal and state constitutions and governing statutes, standards, and regulations, and also include the fundamental common-law requirement that rules of student conduct be reasonable exercises of the schools’ authority in pursuance of legitimate educational and related functions. There are special limitations arising from constitutional guarantees of protected free speech and expression which must be balanced against the school’s need to foster an educational atmosphere free from undue disruptions to appropriate discipline.

“Long-term suspension” means the removal of a student from attendance at all schools of the District for a specified or indefinite period of time exceeding 10 school days.

“Parent” means the natural parent, a guardian, or other person or entity having custody and control of a student who is subject to the Compulsory School Attendance Law, Section 22-12-1, et seq., NMSA 1978, or the student if he/she is not subject to compulsory attendance.

“Public school” means the campus of and any building, facility, vehicle, or other item of property owned, operated, controlled by, or in the possession of a local school district. For purposes of student discipline, the term also includes any non-school premises being used for school-sponsored activities.

“Refusal to cooperate with school personnel” means a student’s willful refusal to obey the lawful instructions or orders of school personnel whose responsibilities include supervision of student.

“Refusal to identify self” means a person’s willful refusal, upon request from school personnel known or identified as such to the person, to identify him/herself accurately.

“Review authority” is a person or group authorized by the Board to review a Disciplinarian’s final decision to impose a long-term suspension or expulsion. Under these rules, the Board of Education shall be the Review Authority unless the Board determines otherwise in specific cases.

“Sexual harassment,” regarding students means conduct prohibited by the District’s Sexual Harassment of Students Policy (728).

“School personnel” means all members of the staff, faculty, and administration employed by the local school board. The term includes school security officers, school bus drivers and their aides, and other authorized agents of the schools, such as volunteers or chaperons whose responsibilities include supervision of students.

“Student” means a person who is enrolled in one or more classes at a public school or a person who was a student during the previous school year and is participating in a school-sponsored activity connected with his or her prior status as a student.

“Temporary suspension” means the removal of a student from school for a specified period of 10 school days or less after a rudimentary hearing.

GENERAL PROVISIONS

Jurisdiction Over Students. All officials, employees, and authorized agents of the District whose responsibilities include supervision of students shall have comprehensive authority within the limits of the law to maintain order and discipline in school. In exercising this authority, such officials, employees, and authorized agents of the public schools may exercise such powers of control, supervision, and correction over students as may be reasonably necessary to enable them to properly perform their duties and accomplish the purposes of education. This authority applies whenever students are lawfully subject to the school’s control, regardless of place. During such periods, public school authorities shall have the

right to supervise and control the conduct of students, and students shall have the duty to submit to the school's authority.

The foregoing is intended to reflect the common law regarding the rights, duties, and liabilities of public school authorities in supervising, controlling, and disciplining students.

Nothing herein shall be construed as enlarging the liability of public school authorities beyond that imposed by statute, common law, or State Board of Education regulation.

School Authority Over Non-Students. In furtherance of the District's compelling interest in the orderly operation of the public school and school activities, school officials, have the following forms of authority over non-students whose actions adversely affect school operations or activities.

On School Property. School officials may prohibit entry to and provide for the removal from any public school building or grounds any person who refuses to identify him/herself and state a lawful purpose for entering. Any person who refuses may be removed by school authorities, who may use reasonable physical force to accomplish the removal. Alternately, a person who refuses a lawful request to leave school premises may be subject to arrest by law officers for criminal offenses including but not limited to criminal trespass, interference with the educational process, or disorderly conduct. A person who does identify him/herself and states a lawful purpose may nevertheless be subject to removal by school officials for engaging in activities prohibited by this regulation. The person may also be subject to arrest by law officers if he/she is committing any crime.

Off School Property. Public school authorities have indirect and limited authority over the activities of non-students off school property. To the extent that non-students' conduct at or near schools or school-sponsored activities may constitute a criminal offense, including the crimes of interference with the educational process, disorderly conduct, or criminal trespass (after refusing a lawful request to leave), school authorities may request law enforcement agencies to arrest the offenders.

Severability. Any part of this regulation found by adjudication before a competent tribunal to be contrary to law shall be stricken without effect to the remainder.

RULES OF CONDUCT

The acts specified below are prohibited in all schools of the District.

Prohibited Activities. The commission of, or participation in, the activities designated below is prohibited at school and whenever students are subject to school control.

Prohibited Conduct:

1. Criminal or delinquent acts;
2. Gang-related activity as described in the District's Policy on Gang Activity (729);

3. Sexual Harassment;
4. Disruptive Conduct;
5. Refusal to identify self; and
6. Refusal to cooperate with school personnel.

Regulated Activities. Beyond those activities designated above as prohibited, all other areas of student conduct may be regulated within legal limits by local school boards as they deem appropriate to local conditions. Conduct by non-students which affects school operations may be regulated within legal limits pursuant to any of the forms of authority described in school authority over non-students.

Students are also subject to Board policies and administrative rules, including, but not limited to those pertaining to:

1. School attendance;
2. Discipline;
3. Use of and access to the public premises, including:
 - Restrictions or conditions upon the bringing of vehicles onto school property;
 - Prohibition of or conditions on the presence of non-school persons on school premises while school is in session; and
 - Reasonable standards of conduct for all persons attending school-sponsored activities or other activities on school property;
4. Students' dress and personal appearance;
5. Use of controlled substances, alcohol, or tobacco on school premises or during school sponsored activities;
6. Speech and assembly within the public schools;
7. Publications distributed in the public school;
8. The existence, scope, and conditions of availability of student privileges, including extracurricular activities and rules governing participation;
9. Possession or custody of a weapon on school premises or at a school-sponsored activity, in violation of the District's Weapons In School Policy (730) or N.M. Stat. Ann. § 22-5-4.7. The Special Rule provisions apply to students with disabilities; and
10. The discipline of students for out-of-school conduct having a direct and immediate effect on school discipline or the general safety and welfare of the school.

ENFORCING RULES OF CONDUCT

Enforcing Attendance Requirements. Formal enforcement action under the District's Attendance Policies (702-705), the Compulsory Attendance Law, or the Family in Need of Services Act, shall be initiated whenever a student's absences indicate that law or policy is being violated. An administrative authority who has reason to believe a student is violating the Board's Attendance Policies may take whatever further action is deemed appropriate under such policies.

Discipline. Formal enforcement action under the District's Discipline Policies (706-707), shall be initiated whenever a student's behavior indicates that policy is being violated. An administrative authority, who has reason to believe a student is violating the Board's

Discipline Policies, may take whatever further action is deemed appropriate under such policies.

Search and Seizure. The Board of Education, in recognition of the necessity of conducting searches and seizures of employees and students from time to time in order to enforce school policies and discipline, will follow the District's Searches and Seizures Policy (308).

Basis for Disciplinary Action. A student may appropriately be disciplined by administrative authorities in the following circumstances:

For committing any act which endangers the health or safety of students, school personnel, or others for whose safety the public school is responsible, or for conduct which reasonably appears to threaten such dangers if not restrained, regardless of whether an established rule of conduct has been violated;

For violating valid rules of student conduct established by the Board or by an administrative authority, when the student knew or should have known of the rule in question or that the conduct was prohibited; or

For committing acts prohibited by this policy, when the student knew or should have known that the conduct was prohibited.

Selection of Disciplinary Sanctions. Administrative authorities shall impose appropriate sanctions for student misconduct in accordance with the District's Due Process Policy (710).

School Discipline and Criminal Charges. Appropriate disciplinary actions may be taken against students regardless of whether criminal charges are also filed in connection with an incident.

Nondiscriminatory Enforcement. School rules shall be imposed and enforced on students without regard to the race, religion, color, national origin, ancestry, sex, or disability of any student, provided, however, that different disciplinary actions may be imposed upon different students for violations of the same rule or for the same type of misconduct on the basis of differences in the manner, severity, duration, or impact of the violation or misconduct, or upon any similarly pertinent factors or considerations.

Individual Culpability: Students may not be punished as a group for the acts of individuals, even when the individuals guilty of misconduct within the group cannot otherwise be identified.

Corporal Punishment. Corporal punishment may be administered only after a rudimentary hearing and in accordance with the District's Corporal Punishment Policy (709).

Detention, Suspension, and Expulsion. Where detention, suspension, and/or expulsion is determined to be the appropriate penalty, it may be imposed only in accordance with the District's Detention, Suspension and Expulsion Policy (708).

Discipline of Students with Disabilities. Students with disabilities are not immune from school disciplinary processes, nor are they entitled to remain in a particular education program when their behavior substantially impairs the education of other children in the program. However, the public schools are required by state law and regulations to meet the individual educational needs of students with disabilities to the extent that current educational expertise permits.

Long-Term Suspensions or Expulsions of students with disabilities shall be governed by the procedures for long-term suspension or expulsion of students with disabilities.

Temporary Suspensions of students with disabilities may be imposed in accordance with the normal procedures prescribed below, provided that the student is returned to the same educational placement after the temporary suspension and unless a temporary suspension is prohibited under the provisions below.

Program Prescriptions. A student with a disability's individualized education program (IEP) need not affirmatively authorize disciplinary actions which are not otherwise in conflict with the regulation. However, the IEP Committee may prescribe or prohibit specified disciplinary measures for an individual student with a disability by including appropriate provisions in the student's IEP. Administrative authorities shall adhere to any such provisions contained in a student with a disability's IEP, except that an IEP Committee may not prohibit the initiation of proceedings for long-term suspension or expulsion conducted in accordance with this regulation.

Immediate removal of students with disabilities may be done in accordance with the procedures below.

PROCEDURES FOR LONG-TERM SUSPENSION OR EXPULSION OF STUDENTS WITH DISABILITIES

Initial Determination. When a student with a disability or a student whom the administrative authority has reason to suspect may have a disability violates a rule of conduct as set forth in the regulation, which may result in long-term suspension or expulsion, the following procedures shall apply:

The administrative authority shall conduct an informal administrative conference to determine if disciplinary action is warranted. The purpose of the conference shall be to:

1. Conduct interviews;
2. Afford the student an opportunity to explain the alleged misconduct;
3. Determine whether the student has an IEP or a plan in accordance with §504 of the Rehabilitation Act of 1973 (hereinafter "§504") in effect and whether the IEP or §504 plan contains alternative disciplinary strategies; and
4. Determine whether a referral for formal evaluation should be made if an IEP or §504 plan is not in effect and a disability is suspected.

The administrative authority shall make a determination as to whether the conduct warrants long-term suspension and/or seeking an injunction from a court of competent jurisdiction.

Parent Notification. Upon determination by the administrative authority that long-term suspension or expulsion will not be pursued, the administrative authority shall notify the student's parent(s) of the incident.

Upon determination by the administrative authority that the student's IEP or §504 plan sets forth alternative discipline strategies for the behavior, the administrative authority shall implement the alternative strategies and notify the parent(s) accordingly.

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Upon determination by the administrative authority that an IEP or §504 plan not in effect for the students and that a referral for formal evaluation should be made, the administrative authority shall refer the student for formal evaluation and shall notify the parent(s) in accordance with applicable requirements.

Upon a determination by the administrative authority that long-term suspension or expulsion will be pursued and that an IEP or §504 plan is in effect for the student, the administrative authority shall notify the parent(s) as follows:

Scheduling of the IEP meeting in accordance with the requirements of the IDEA-Part B and 34 CFR Part 300, or §504, and 34 CFR Part 104, as applicable; and

Contemplated disciplinary action.

Manifestation Inquiry. The administrative authority shall convene the IEP or §504 meeting to determine if the student's behavior is a manifestation of the disability and whether the student's IEP or §504 plan is appropriate.

If the determination is made that the behavior is a manifestation of the disability, the IEP/§504 Committee shall revise the IEP or §504 plan as needed to address the needs of the student. The student may not be suspended or expelled from school for more than 10 school days unless the school district obtains an order from a court of competent jurisdiction to remove the student from school or to change the student's placement.

If determination is made that the behavior is not a manifestation of the disability but that the student's program is inappropriate, the IEP/§504 Committee shall revise the IEP/§504 plan. The student may not be suspended or expelled from school for more than 10 school days unless the school district obtains an order from a court of competent jurisdiction to remove the student from school or to change the student's placement.

If the determination is made that the misbehavior is not a manifestation of the disability and the student's program is appropriate; the administrative authority may proceed to initiate long-term suspension or expulsion proceedings in accordance with the District's Detention, Suspension, and Expulsion Policy (708).

Special Rule Regarding Weapons. This rule shall apply when a student with a disability is determined to have brought a weapon to school.

A student who has a disability in accordance with Part B of the IDEA and who is determined to have brought a weapon to school may be immediately placed in an interim alternative educational setting for not more than 45 calendar days during the manifestation inquiry. The interim alternative educational setting shall be determined by the IEP Committee, which includes the student's parent(s). Parental consent to the alternative placement is not required.

If the parent(s) of a student placed in an alternative educational setting pursuant to this Special Rule request(s) a due process hearing pursuant to Part B of the IDEA, the student shall remain in the alternative educational setting during the pendency of any proceedings, unless the parent(s) and administrative authority agree otherwise.

If, upon final determination, it is decided that bringing the weapon to school is unrelated to the student's disability, the administrative authority may proceed to initiate long-term suspension or expulsion proceedings.

Alternative Educational Services During the Period of Long-Term Suspension or Expulsion. Alternative educational services for a student with a disability upon whom a long-term suspension or expulsion has been imposed for behavior not related to the disability shall be provided as follows:

During the period of disciplinary exclusion from school, each student who is disabled pursuant to the IDEA must continue to be offered a program of appropriate educational services that is individually designed to meet his/her unique learning needs. Such services may be provided in the home, in an alternative school, or in another setting.

School districts may cease educational services to students who are disabled pursuant to §504 during periods of disciplinary exclusion from school that exceed 10 school days if students who are not disabled do not continue to receive educational services in similar circumstances.

Provision of Alternative Educational Services. The parent(s) shall be notified of the IEP/§504 meeting.

An IEP is developed to reflect the alternative educational services, and placement to be provided to the student during the period of the long-term suspension or expulsion.

If the parent(s) request a due process hearing, the student shall remain in the alternative educational setting.