

# REGULATION GUIDE

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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 ~~student~~ ~~pupil~~ suspended for **one, but not more than** ten ~~or fewer~~ consecutive school days by providing for the following:
  - a. As soon as practicable, oral or written notice of charges to the ~~student~~ ~~pupil~~.
    - (1) When charges are denied, an explanation of the evidence forming the basis of the charges ~~shall~~ also **shall** be provided.
  - b. **Prior to the suspension, a** ~~An informal hearing~~ ~~prior to the suspension in~~ ~~during~~ which the ~~student~~ ~~pupil~~ is given the opportunity to present **his or her version of the events regarding his or her** ~~the pupil's side of the story regarding the~~ actions leading to the short-term suspension and **is provided notice of** 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 **a school administrator** ~~the Building Principal~~ or designee;
    - (2) To the extent that a ~~student's~~ ~~pupil's~~ presence poses a continuing danger to persons or property or an ongoing threat of disrupting the educational process, the ~~student~~ ~~pupil~~ may be immediately removed from the ~~student's~~ ~~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.



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- c. Oral or written notification to the **student's** **pupil's** parent(s) ~~or legal guardian(s)~~ of the **student's** removal from the **student's** **pupil's** educational program prior to the end of the school day on which the ~~Building Principal or designee makes the decision~~ **decides** to suspend the **student**. **The notification** **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 **student** conduct the **student** **pupil** is accused of violating;
  - (4) The **student's** **pupil's** due process rights, pursuant to **N.J.A.C. 6A:16-7.1(c)3 and** 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 **student** **pupil** while waiting for the **student's** **pupil's** parent(s) ~~or legal guardian(s)~~ to remove the **student** **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.~~



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~~(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.~~

**(1) The student's academic instruction shall be provided within five school days of the suspension.**

**(2) At the completion of a short-term suspension, the Board of Education shall return a general education student to the general education program for which he or she was suspended.**

**(3) The academic instruction provided to a student with a disability shall be provided consistent with N.J.A.C. 6A:14.**

2. The ~~suspending Building~~ Principal **suspending the student** shall immediately report the suspension to the Superintendent, who **shall** ~~is required to~~ report it to **the** 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.~~

**3. An appeal of the Board's decision affecting the general education student's educational program shall be made to the Commissioner, in accordance with N.J.S.A. 18A:37-2.4 and N.J.A.C. 6A:3-1.3 through 1.17.**

4. For a **student pupil** with a disability, the provisions set forth in ~~this section~~ **N.J.A.C. 6A:16-7.2** 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 **student pupil** suspended for more than ten consecutive school days by providing the following:



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- a. Immediate Notification to the student pupil of the charges, prior to the student's pupil's removal from school;
- b. **Prior to the suspension, a** An informal hearing **prior to the suspension in** **during** which the student pupil is given the opportunity to present **his or her version of events** ~~the pupil's side of the story~~ regarding ~~the~~ **his or her** pupil's actions leading to the long-term suspension and **is provided notice of** 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 student's pupil's parent(s) or ~~legal guardian(s)~~ of the student's pupil's removal from school;
- d. Appropriate supervision of the student pupil while waiting for the student's pupil's parent(s) or legal guardian(s) to remove the student 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;
  - (3) The student's pupil's due process rights, pursuant to N.J.A.C. **6A:16-7.1(c)3 and N.J.A.C. 6A:16-7.3** ~~6A:16-7.2 through 7.6~~; and
  - (4) ~~That F~~ further engagement by the student pupil in conduct warranting expulsion, pursuant to N.J.S.A. 18A:37-2, shall amount to a knowing and voluntary waiver of the student's pupil's right to a free public education, in the event that a decision to expel the student pupil is made by the Board, pursuant to N.J.S.A. 18A:37-2 and N.J.A.C. 6A:16-7.4**s**.



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- (a) The Board shall request **from the parent and student** written acknowledgement of the notification **provided** ~~of the provisions of B.1.e.(4) above from the parent(s) or legal guardian(s) and the pupil~~ **pursuant to N.J.A.C. 6A:16-7.3(a)5.iv** subsequent to the removal ~~of from~~ **the student from his or her** ~~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. **For a A student 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 **student's** 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)~~78~~;
- i. **Either in- or out-of-school e** Educational services, ~~either in school or out of school,~~ that are comparable to those provided in the public schools for **students 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.
- (1) The **student's educational** 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 **student based on the Core Curriculum Content Standards and the following considerations** ~~pupil, at a minimum, based on the following criteria:~~



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- (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 **student pupil**;
  - (c) The **student's 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 **student 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 **that shall, which**, at a minimum, **shall**:
- (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) **Before taking final action, t**he Board as a whole shall receive and consider either a transcript or detailed report on **such the** hearing **before taking final action**.



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- (2) Include the opportunity for the **student pupil** to:
    - (a) Confront and cross-examine witnesses, **if 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 **student pupil** is suspended from the general education program; **and**
  - ~~(4) Not be subject to the provisions of the "Open Public Meetings Act," pursuant to N.J.S.A. 10:4-6; and~~
  - ~~(4) Result in a decision by the Board's **decision that, which at a minimum,** shall be based, **at a minimum,** on the preponderance of competent and credible evidence.~~
- k. A written statement to the **student's pupil's** parent(s) or **legal guardian(s) regarding** of the Board's decision within five school days after the close of the hearing. **The statement shall include** ~~that includes;~~ at a minimum:
- (1) The charges considered;
  - (2) A summary of the documentary or testimonial evidence from both the **student pupil** and the administration that was brought before the **district Board of Education** at the hearing;
  - (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 **student, pupil** pursuant to **B.I.i.** above;



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- (5) The terms and conditions of the suspension; and
- (6) The right to appeal **to the Commissioner of Education** the Board's decision regarding the **student's** ~~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.** **If at any time it is found that the student did not commit the offense, the student shall be immediately** ~~Immediate~~ returned to the **program from which he or she was removed** ~~general education program if at any time it is found that the general education pupil did not commit the offense;~~ **and**

~~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~~

~~m.~~ **ma.** At the completion of a long-term suspension, the Board shall return the general education **student** ~~pupil~~ to the general education program.

2. Any appeal of the Board's decision regarding the general education **student's** ~~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 a general education **student** ~~pupils~~ shall not be continued beyond the Board's second regularly **scheduled** 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.1.** 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 **student pupil**; and
  - (4) The recommendation of the Superintendent, **after considering input from the** Principal or Director of the alternative education program or home or other **in-school or** out-of-school instruction program in which the **student pupil** has been placed.
- b. The Board shall develop and adopt policies and procedures providing for action on the continuation of **student pupil** suspensions in the event of cancellation of the first or second regular Board meeting pursuant to N.J.S.A. 18A:37-4 and 5. In this unlikely event, a special committee of the Board, which will include the Superintendent of Schools or his/her designee, will be appointed by the Board President to make a decision on the continuation of the suspension. The committee's decision will be implemented subject to ratification of the committee's decision at the next regularly **scheduled** Board meeting.
4. When the Board votes to continue ~~the suspension of~~ a general education **student's pupil suspension, it shall review the case, the Board,** in consultation with the Superintendent, ~~shall review the case~~ at each subsequent Board meeting for the purpose of determining:



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- a. The status of the **student's** ~~pupil's~~ suspension;
  - b. The appropriateness of the **suspended student's** current educational program ~~for the suspended pupil~~; and
  - c. Whether the suspended **student's** ~~pupil's~~ current placement, pursuant to ~~B.1.i.~~ above, should continue or whether the **student** ~~pupil~~ should return to the general education program.
5. When the Board votes to continue ~~the suspension of~~ a general education **student's suspension** ~~pupil~~, **it shall make** ~~the Board~~, in consultation with the Superintendent, ~~shall make~~ the final determination on:
- a. When the **student** ~~pupil~~ is prepared to return to the general education program;
  - b. Whether the **student** ~~pupil~~ **will** ~~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:16-7.4**, ~~N.J.A.C. 6A:16-7.5~~ and Policy 5620.
6. The Board shall provide a general education **student** ~~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 **student** ~~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



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- b. The educational services provided, either in-school or out-of-school, shall be comparable to those provided in the public schools for **students** **pupils** of similar grades and attainments, pursuant to the provisions of N.J.S.A. 18A:38-25.
7. For a **student** **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 **student's** **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 **a each student** **pupil** with a disability who is subjected to a long-term suspension.
    - b. All decisions concerning the **student's** **pupil's** educational program or placement shall be made by the **student's** **pupil's** Individualized Education Program team.
    - c. The provisions of B.2. through B.6. above shall not apply to **students** **pupils** with disabilities.

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