

Derry Cooperative School District No. 1
New Hampshire School Administrative Unit #10
18 South Main Street
Derry, NH 03038

EPS Code: J F C J

District Code:

SAFE SCHOOL ZONE

Introduction

It is the School District's policy that all school buildings, premises, bus stops and routes and associated areas shall be safe environments for students, free of danger posed by the presence of weapons or conduct which threatens harm by means of weapons or objects used as weapons. It is the School District's policy that the provisions of RSA 193-D:2, the "Safe School Zone Act", will be carried out in all respects. Should any portion of this policy conflict with state law or regulations issued pursuant thereto, it is the School District's intention that its policy be read in such a manner that it conforms to such law or regulation.

I. Definitions

- a. "Expulsion" means the permanent denial of a pupil's attendance at school for gross misconduct; neglect or refusal to conform to reasonable rules of the school; an act of theft, destruction or violence as defined in RSA 193-D:1; possession of a pellet or BB gun or rifle; or bringing or possessing a firearm or other dangerous weapon in a safe school zone without the written authorization of the superintendent or designee.
- b. "Firearm or other dangerous weapon" means any firearm or weapon as defined in section 921 of Title 18 of the US Code, and any weapon prohibited by RSA 159, including but not limited to dangerous weapons listed in RSA 159:16.
- c. "Gross misconduct" means an act which:
 1. Results in violence to another's person or property
 2. Poses a direct threat to the safety of others in a safe school zone; or
 3. Is identified in RSA 193-D:1, I.
- d. "Neglect", in the context of RSA 193:13, I and II, means the failure of a pupil to pay attention to an announced, posted or printed school rule.
- e. "Pupil" means child through age 21 in attendance at school during the school day.
- f. "Refusal", in the context of RSA 193:13, I and II means the willful defiance of a pupil to comply with an announced, posted, or printed school rule.
- g. "Safe school zone" means any area which includes school property or school buses, as defined in RSA 193-D:1, II.

- h. "School day" means:
1. for a pupil who takes the school bus, the time period beginning when a pupil boards the bus in the morning to the time when a pupil disembarks from the bus in the afternoon; and
 2. for a pupil who walks to school or arrives by private vehicle, the time period beginning when the pupil arrives on school grounds to the time when the pupil leaves the school grounds.
 - i. "School employee" means any school administrator, teacher or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for the school district, or school administrative unit.
 - j. "School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.
 - k. "School purposes" means school-sponsored programs, including but not limited to educational or extracurricular activities.
 - l. "Superintendent" means the school superintendent or chief administering officer, or a representative designated in writing as authorized under RSA 193:13, I.
- m. "Suspension" means the temporary denial of a student's attendance at school for a specific period of time for gross misconduct or for neglect or refusal to conform to announced, posted, or printed school rules.
- n. "Unlawful possession: in RSA 193-D:1, I(e) shall include but not be limited to:
1. having control over a weapon or an object used as a weapon during any part of a school day;
 2. transporting the object to school;
 3. storing the object anywhere on the school premises, whether in the student's locker or any other student's locker, or any other place on the premises; or
 4. doing any other act which causes or contributes to causing the object to be on school premises, or which causes or contributes to causing an object to be used as a weapon as defined by the school board when complying with paragraph (a).

II. Expulsion

- a. Any pupil who engages in or commits any of the following acts may be expelled from school as described in Section III below:
1. Homicide under RSA 630;
 2. (I) Any first or second degree assault under RSA 631;
(II) Any simple assault under RSA 631:2-a;

3. Any felonious or aggravated felonious sexual assault under RSA 632-A;
4. Criminal mischief under RSA 634:2;
5. Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159;
6. Arson under RSA 634:1;
7. Burglary under RSA 635;
8. Robbery under RSA 636;
9. Theft under RSA 637;
10. Illegal sale or possession of a controlled drug under RSA 318-B;
11. Gross misconduct or neglect or refusal to conform to the reasonable rules of the school under RSA 193:13, II;
12. Possession of a pellet or BB gun or rifle under RSA 193:13, II;

- (b) Any pupil who brings or possesses a firearm as defined in section 921 of Title 18 of the United States Code in a safe school zone as defined in RSA 193-D:1 without written authorization from the superintendent or designee shall be expelled from school by the school board for a period of not less than twelve months. Any expulsion shall be subject to review by the board if requested by a parent or guardian prior to the start of each school year and further, any parent or guardian shall have the right to appeal any such expulsion by the board to the state board of education. (RSA 193:13, III).

III. Disciplinary Procedures

- (a) The following levels of discipline are available to school officials in enforcing this policy:
1. Short-term suspension by a principal which lasts between one and five school days.
 2. Short-term suspension by a superintendent which lasts between six and 10 school days.
 3. Long-term suspension by a superintendent which lasts between and 11 and 20 days.
 4. Long-term suspension which lasts longer than 20 days and which requires the approval of the school board.
 5. Expulsion by the school board for a period determined in writing by the board under RSA 193:13, II. Expulsion by the school board may be appealed to the state board.
 6. Expulsion by the school board for a period of not less than 12 months under RSA 193:13, III. Expulsion by the school board may be appealed to the state board.
- (b) The following due process procedures shall be followed:
1. In a short-term suspension of a pupil by a principal or superintendent, due process shall include:
 - (i) Oral or written notice of the charges and an explanation of the evidence against the pupil.
 - (ii) An opportunity for the pupil to present his/her side of the story.
 - (iii) The principal's or superintendent's written recommendation for student action to correct the discipline problem.

- (iv) Written notice to the pupil and parent or guardian, if available, or any disciplinary action taken against the student.
- (v) A short-term suspension by a principal may be appealed to the superintendent.
- (vi) A short-term suspension by the superintendent may be appealed to the school board under RSA 193:13, I.

2. In a long-term suspension of a pupil by the superintendent, due process shall include:

- (i) Written communication to the pupil and a parent or guardian of charges and evidence against the pupil, and an identification of any witness to the alleged offense.
- (ii) A full and fair hearing before the superintendent including the right to be represented by counsel, the right to object to cross examine and introduce evidence, the right to compulsory production of documents and witnesses, the right to have the proceedings recorded or transcribed, and the statutory right of appeal.
- (iii) Written notice to at least one parent or guardian explaining the superintendent's action.
- (iv) A long-term suspension by the superintendent of less than 20 days may be appealed to the school board under RSA 193:13, I.
- (v) A long-term suspension by the superintendent of more than 20 days must be approved by the school board under RSA 193:13, I.

3. In an expulsion or a long-term suspension which requires school board approval, due process shall include the minimal requirements listed in Ed 317.03(g):

- (i) Written notice to the pupil and at least one of the pupil's parents or guardians of the date, time and place for a hearing in person before the board;
- (ii) A written statement of the charges and evidence against the pupil and the name of witnesses who will testify;
- (iii) The superintendent's written recommendation for school board action and a description of the process used by the superintendent to research his/her recommendation;
- (iv) An opportunity for a hearing at which the pupil can have his/her side of the story represented;
- (v) A written notice to all parties that the following board hearing procedures shall apply:
 - 1. The student, together with a parent or guardian, if available, may waive the right to a hearing and admit to the charges made by the superintendent;
 - 2. If a hearing is held at the request of the pupil, parent or guardian, if available, formal rules of evidence shall not be applicable; and
 - 3. The hearing shall be either public or private and the choice shall be that of the person requesting the hearing. During the hearing, the pupil and/or parent or counsel representing

the pupil, shall have the right to examine any and all witnesses.

- (vi) A statement that the local school board has complied with all the requirements of RSA 91-A, the state's right to know law, including compliance with all the record keeping requirements of that law;
 - (vii) A statement of the time period for which the student is expelled and any action the student may take to be restored by the board;
 - (viii) A procedure for how the pupil, parent or guardian, if available, may request a review of the board's action prior to the start of each school year, including procedures for how the board will make timely response to the request which shall be no later than 30 days from the receipt of the request. The procedure shall also include how the board will provide for a transition plan detailing actions the student will be required to take as a condition for re-entry into the school at a date later than the start of the school year; and
- (c) All appeals to the state board allowed under RSA 193:13, II or III shall be filed within 20 calendar days of receipt of the written decision of the local school board and shall be in accordance with RSA 541-A and Ed 2000.
- (d) In all cases, appropriate adjustments shall be made to account for the age and grade level of the pupil being disciplined.

IV. Notification of Students

In accordance with RSA 193:13 the following notification procedures will be followed:

- (a) The student handbooks for all school pupils shall contain a summary of RSA 193:13 and a summary of this policy. Copies of the statutes and this policy shall be available in the principal's office. Notice of the policy and the location of copies shall be displayed in a prominent place on each school's notice board.
- (b) Copies of the statutes and school policy will be given to all teachers and other school employees.
- (c) Copies of the statutes and school policy will be given to any student being disciplined pursuant to its terms.

V. Waivers, Appeals and Review

In accordance with RSA 193:13 the following waiver, appeal and review procedures shall be followed:

- (a) In the case of short or long term suspensions by the superintendent the appeal rights shall be as contained in RSA 193:13, I.
- (b) In the case of expulsion pursuant to RSA 193:13, II, III and this policy, written application may be made to the board through the superintendent's office no later than one month prior to start of each school year. The application shall contain a statement in the pupil's own words explaining why he/she

should be considered for readmission. The application shall be accompanied by at least one recommendation from a member of the community, such as a counselor, minister or employer who has observed the pupil's behavior during the period of expulsion. The application shall also be accompanied by the superintendent's and building administrator's recommendation to the board, which may include conditions for phased readmission.

- (c) The superintendent may, upon written application of an expelled pupil and on a case-by-case basis, recommend to the board modification of an expulsion. Prior to consenting to such a modification, the pupil shall be required to submit to the superintendent sufficient evidence in the form of letters, work history or other documents or testimony demonstrating that it is in the school's best interests and the pupil's best interests to allow a modification. In making such a decision due regard will be given to other pupils and staff whose safety and well being shall be of paramount importance.

VI. Reporting Procedures

- (a) Any school employee who has witnessed or who has information from the victim of an act of theft, destruction, or violence witnessed by such employee in a safe school zone shall report such act in writing immediately to an immediate supervisor. A supervisor receiving such report shall immediately forward such information to the school principal who shall file it with the local law enforcement authority immediately, by telephone or otherwise, and shall be followed within 48 hours by a report in writing.

The provisions of this paragraph (a) shall not apply to any simple assault involving pupils in kindergarten through grade 12 if the school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assault.

- (b) In accordance with RSA 193-D:4, each written report by a supervisor to the principal relating to an act of theft, destruction or violence in a safe school zone shall be on standardized form #Ed 317, available to school officials from the state board upon request.
- (c) Form #Ed 317 shall contain all the statutory information required by RSA 193-D:4, including a specific citation to the law listed in RSA 193-D:1, I which has been violated, and shall include as an attachment a copy of the memorandum required by RSA 193-D:4, 1(c).
- (d) In the case of unlawful possession or sale of a firearm or other dangerous weapon, the report shall state if the firearm has been licensed under RSA 159, and if so, who legally owns it.
- (e) Each school principal shall notify the state board in writing whenever a written police report supersedes the report required by RSA 193-D:4 in accordance with RSA 193-D:5.

VII. Student with an Educational Disability

- (a) Any suspension or expulsion of a student with an educational disability as defined in Ed 1102.31 shall be in accordance with Ed 1119.11.
- (b) If, under the provisions of Ed 1119.11 (c), the special education placement team determines that the behavior leading to the suspension or expulsion is not a direct result of the student's educational disability, Sections Ed 317.01 through Ed 317.05 shall apply.
- (c) In the case of a student with an educational disability who is determined to have brought a firearm or other dangerous weapon into a safe school zone, the federal requirement of section 615 (e) of Public Law 101-487 shall apply, and the student may be placed in an interim alternative educational setting for the time periods determined by that Public Law.