

M

Regulation 5611 REMOVAL OF PUPILS FROM REGULAR EDUCATION PROGRAM FOR WEAPONS/FIREARMS VIOLATIONS

A. Definitions for the purposes of this regulations are:

1. Removal - The exclusion of a pupil from the regular education program in the school in which the pupil was assigned and the assignment of the pupil to an alternative education school or program for at least one calendar year, following a proper hearing conducted by the Board of Education.
2. Suspension - A temporary exclusion from school, following due process procedures.
3. Expulsion - A permanent exclusion from school which denies a pupil the free, thorough and efficient public education provided by the public school district in which the pupil resides, based on specific conditions and following due process procedures, including a hearing conducted by the Board of Education.

B. Procedures - Removal of Pupils From Regular Education

1. Any pupil convicted or found to be delinquent for the following offenses shall be immediately removed from the school's regular educational program for a period of not less than one calendar year and placed in an alternative education school or program pending a hearing before the Board of Education to remove the pupil:
 - a. Possessing a firearm on any school property, on a school bus, or at a school-sponsored function; or
 - b. Committing a crime while possessing a firearm.
2. Any pupil who assaults a pupil, teacher, administrator, board member, or other school district employee, with a weapon other than a firearm on school property, on a school bus, or at a school-sponsored function must be immediately removed from the school's regular education program and placed in an alternative education school or program, pending a hearing before the Board of Education.
3. The principal is responsible for the removal of the pupil and the principal must immediately report the removal to the Superintendent of Schools and the local law enforcement agency.
4. The principal will notify the pupil's parent or legal guardian if the pupil is possessing a firearm on school property or assaults a member of the school community with a weapon other than a firearm on school property, on a school bus, or at a school-sponsored function.

5. If placement in an approved alternative education school or program is not available, the pupil must be provided home instruction or instruction in other suitable facilities or program until the alternative educational placement is available.

6. The school district may consider other alternative education programs, such as an Individualized Program Plan (IPP) developed in accordance with the graduation requirement standards set forth in N.J.A.C. 6:8.7.1(d)ii.

7. Any pupil removed for a weapons offense is entitled to a hearing before the Board of Education to determine if the pupil is guilty of the offense.

a. The hearing shall take place no longer than 30 calendar days following the day the pupil is removed from the regular education program. The hearing is not subject to the provisions of the Open Public Meetings Act, P.L. 1975, c.231 (C. 10:4-6 et seq.).

b. The decision of the Board of Education must be made within 5 days after the close of the hearing. Any appeal to the Commissioner of Education must be made within 90 calendar days of the Board's decision.

c. If the Board finds the pupil is not guilty of the offense(s), the pupil must be immediately returned to the regular education program.

d. The Superintendent of Schools may modify the decision to remove the pupil on a case by case basis.

C. Return of Pupils to Regular Education

The Superintendent determines whether the pupil is prepared to return to the regular education program or whether the pupil remains in the alternative education program or other educational placement. The Superintendent's decision must be made in accordance with school district policy and New Jersey Administrative Code. If the pupil is educationally disabled, the pupil's placement is determined by the child study team and the pupil's parent or legal guardian in accordance with N.J.A.C. 6:28 et seq., Special Education.

D. Expulsion

The Board of Education is not prohibited from expelling a pupil and none of the above procedures in this regulation or within the law prohibit expulsion.

E. Superintendent's Permission For Firearm

The Superintendent may grant permission to written requests from pupils to possess, handle, or use weapons as part of their participation in school-sponsored functions, military classes, or for recreational activities such as hunting clubs and rifle clubs. The

Superintendent must not grant such permission to any pupil who has been convicted or found delinquent for possession of a firearm or for a crime involving the use of a firearm.

F. Alternative Education Settings

If a pupil is removed from the regular education program and a placement in an approved alternative education program is not available, or if the Superintendent determines that it is not in the best interest of the pupil and the school to modify the conditions for the removal and placement of the pupil, the following alternatives are available:

1. Home Instruction - Home instruction may be provided in accordance with Policy 2412. If instruction cannot reasonably be provided at the pupil's place of confinement, a suitable alternative location such as a municipal building, state government facility or county facility may be considered;
2. Home Schooling - Parents or legal guardians with children removed from the regular education program have the right to educate a child at home. The parent or legal guardian must demonstrate to the school district that the instruction provided at home is academically equivalent to that provided in public school for a child of similar grade and attainment. If a child is educated at home, the school district will evaluate the child before returning to the public school to determine placement;
3. Distance Learning - Video/audio bridges providing local access to school-based or home sites used to deliver instruction; or
4. Another Program Completion Option - An Individualized Program Plan (IPP) may be developed in accordance with graduation standards set forth in N.J.A.C. 6:8-7.1(d)ii. The IPP may be used in conjunction with home instruction, or as the basis for organizing the provision of other tutorial and supervised learning experiences.

G. Special Education

1. Pupils with disabilities who exhibit dangerous or violent behavior, may be removed immediately from the school setting. The principal may suspend the pupil for up to ten school days without the involvement of the child study team. If the school believes the pupil should be removed for more than ten school days the following steps shall be taken:
 - a. The child study team must conduct a reevaluation to determine if the pupil's misconduct was primarily caused by his/her disability;
 - b. If the misconduct is determined not to be primarily caused by the pupil's disability, the pupil may be removed, expelled, or suspended for more than ten school days following applicable due process procedures. The district may not cease educational services;

c. If the misconduct is determined to be primarily caused by the pupil's disability, the pupil may not be expelled or suspended from school for more than ten school days. The school district may change the pupil's placement if it believes that maintaining the pupil in the current educational placement is inappropriate.

2. If the school district believes that the pupil with the educational disability is a danger to self or others, or the pupil's presence in school will substantially disrupt the educational process, the district may seek emergent relief through the Office of Administrative Law to remove the pupil beyond ten school days.

3. In the event the principal suspends the pupil for up to ten school days, the pupil may be placed in an interim alternative educational placement for 45 calendar days. The child study team and others involved in developing the pupil's Individualized Education Program (IEP) are responsible for determining the interim alternative educational setting. The child study team will conduct a reevaluation of the pupil to determine if the pupil's misconduct was primarily caused by the pupil's disability and to review the pupil's placement.

a. If it is determined the pupil's behavior was not primarily caused by the disability, the pupil may be removed for one year to the interim alternative placement.

b. If it is determined that the misconduct was primarily caused by the disability, the pupil may not be automatically removed for one year; however the district may propose a change in the pupil's placement.

c. In either instance, if the parent's or legal guardian's request a due process hearing, the pupil must remain in the alternative education placement until the completion of all proceedings, unless the parents or legal guardians and the school district can agree on another placement.

Issued: 11 June 1997