INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating, developing, and inspiring our students for lifelong success

Series Number **503.3.2AR** Adopted **December 1977** Revised **August 2023**

Title **Process for Removal from Class, Suspension, Exclusion and Expulsion of a Student**

1. **Grounds for Removal from Class, Suspension, Exclusion and Expulsion**

   1.1 A student may be removed from class, suspended, excluded or expelled from school on any of the following grounds:

      1.1.1 Willful violation of any reasonable district policy or regulation, or school or classroom rule. Such regulations must be clear and definite to provide notice to students that they must conform their conduct to those requirements. (See Administrative Regulation 503.3AR, Student Behavior Expectations and Responses for Behavior.);

      1.1.2 Willful conduct that significantly disrupts the right of others to an education, the ability of school personnel to perform their duties or school-sponsored cocurricular activities, or

      1.1.3 Willful conduct that endangers district employees, the student or other students, surrounding persons or school property.

   1.2 For specific information on grounds for removal from class, suspension, exclusion and expulsion of special education students, refer to Administrative Regulation 503.3.1AR, Special Education Students: Responses for Behavior.

2. **Removal from Class/In-School Suspension**

   2.1 Definitions

      2.1.1 Removal from class or removal – any actions taken by a teacher, principal or other district employee to prohibit a student from attending a class period or activity period for a period of time not to exceed five days.

      2.1.2 In-school suspension – any actions taken by a teacher, principal or other district employee to prohibit a student from attending more than one class and/or activity period, not to exceed five days. Individual schools may provide restorative programming during in-school suspension.

      2.1.3 Class period or activity period – a block of time devoted to one subject area or activity.

   2.2 Process

      2.2.1 A student may be removed from a class period or activity period, or receive in-school suspension after the teacher consults with and receives approval from the principal or his or her designee. Documentation shall be made of the removal or in-school suspension and its basis.

      2.2.2 A student who engages in assaultive or violent behavior in the classroom must be removed from class immediately and may be subject to other disciplinary responses. The removal from the classroom shall be for a period of time deemed appropriate by the administrator, in consultation with the teacher.

      2.2.3 Classroom rules must be reviewed at the beginning of each grading period or as new students enroll. A mechanism to review the classroom rules for students who were absent when the rules were reviewed must be implemented by each teacher. A student who violates classroom rules may be subject to any or all of the following interventions:

         2.2.3.1 The teacher shares specific concerns with the student and suggests positive alternatives to the student;

2.2.3.2 If the problem continues, the student's parent or guardian must be contacted by the teacher (a telephone contact may be initiated at any step in the process);

2.2.3.3 The teacher will contact the student's counselor or administrator. The teacher, counselor or administrator and student will discuss the inappropriate behaviors. If the need is determined for a referral to the Child Study Team, the counselor or administrator will submit the referral, and/or

2.2.3.4 An informal administrative conference will be held with the student, teacher and administrator, and a decision will be made regarding the student's removal from class or in-school suspension if the problem persists.

2.3 The decision for removal or in-school suspension, and the length of time of the removal or suspension will be made by the administrator. The student will be notified verbally. The parent(s) or guardian(s) will be notified by telephone or first class U.S. mail.

2.3.1 The student will be removed from class or receive in-school suspension without an informal administrative conference if he or she exhibits willful conduct which materially and substantially disrupts the right of others to an education or willful conduct which endangers district employees, the student or other students or school property.

2.3.2 The school retains custody of the student during the period of removal from class or in-school suspension. The administrator is responsible for the student who has been removed from class or suspended.

2.3.3 Students will return to class upon completion of the removal or suspension period.

2.3.4 After a student has been removed from class more than 10 times in one school year, the school shall notify and meet with the student’s parent or guardian to discuss the problem that is causing the student to be removed from class.

2.4 Recess Detention and Scheduled Mealtimes

2.4.1 Recess detention means excluding or excessively delaying a student from participating in a scheduled recess period as a consequence for student behavior. Recess detention does not include, among other things, providing alternative recess at the student's choice.

2.4.2 The school district makes efforts to ensure student access to structured breaks from the demands of school and to support teachers, principals, and other school staff in their efforts to use evidence-based approaches to reduce exclusionary forms of discipline.

2.4.3 The school district will not use recess detention unless:

2.4.3.1 A student causes or is likely to cause serious physical harm to other students or staff; or

2.4.3.2 The student's parent or guardian specifically consents to the use of recess detention; or

2.4.3.3 For students receiving special education services, the student's individualized education program team has determined that withholding recess is appropriate based on the individualized needs of the student.

2.4.4 The school district will not withhold recess from a student based on incomplete schoolwork.

2.4.5 School staff will make a reasonable attempt to notify a parent or guardian within 24 hours of using recess detention.

2.4.6 The school district will compile information on each recess detention at the end of each school year, including the student's age, grade, gender, race or ethnicity, and special education status. This information must be available to the public upon request and may use the data in professional development promoting the use of nonexclusionary discipline.

2.4.7 The school district will not withhold or excessively delay a student's participation in scheduled mealtimes. This section does not alter a district or school's existing responsibilities under section 124D.111 or other state or federal law.

3. **Suspension (Out-of-School)** – The administration may suspend a student from school when necessary. Before any out-of-school suspension begins, the school administration will contact a parent or guardian of the student to be suspended.

3.1 Suspension from School (Out-of-School Suspension) for One Day or Less – When a student is suspended from school for one day or less, the student and his or her parent or guardian shall be notified about his or her suspension at or before the time the suspension is to take effect except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property.

3.2 Suspension from School (Out-of-School Suspension) for More Than One Day

3.2.1 Definition – “Suspension” means an action taken by the school administration, under rules promulgated by the School Board (refer to Administrative Regulation 503.3AR, Student Behavior Expectations and Responses for Behavior), prohibiting a student from attending school for a period of no more than 10 school days. (This definition does not apply to dismissal from school for one school day or less.)

3.2.2 Before out-of-school suspension begins, the school administration shall attempt to provide nonexclusionary disciplinary policies and practices except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property. Nonexclusionary disciplinary policies and practices" means policies and practices that are alternatives to dismissing a student from school, including but not limited to evidence-based positive behavior interventions and supports, social and emotional services, school-linked mental health services, counseling services, social work services, academic screening for Title 1 services or reading interventions, and alternative education services. Nonexclusionary disciplinary policies and practices include but are not limited to the policies and practices under sections 120B.12; 121A.575, clauses (1) and (2); 121A.031, subdivision 4, paragraph (a), clause (1); 121A.61, subdivision 3, paragraph (r); and 122A.627, clause (3).

3.2.3 When a student is suspended for more than one day, the student shall have an informal administrative conference before the suspension, except where it appears that the student will create an immediate and substantial danger to self or to surrounding persons or property, in which case the conference shall take place as soon as practicable following the suspension.

3.2.3.1 At or before the informal administrative conference, a school administrator shall notify the student of the grounds for the suspension and provide an explanation of the evidence the authorities have, and the student may present the student’s version of the facts.

3.2.3.2 A written notice in the form provided in Procedure 503.3.2P, Notice of Suspension, containing the following elements shall be personally served upon the student at or before the time the suspension is to take effect, and upon the student's parent or guardian by U.S. mail within 48 hours of the conference:

3.2.3.2.1 The grounds for suspension;

3.2.3.2.2 A brief statement of the facts;

3.2.3.2.3 A description of the testimony;

3.2.3.2.4 A readmission plan;

3.2.3.2.5 A copy of Minnesota Statutes 121A.40 through 121A.56, Pupil Fair Dismissal Act (Procedure 503.3P), and

3.2.3.2.6 Appropriate alternative educational services (when required by law). 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 assessment, homebound instruction, supervised homework, or enrollment in another district or in an alternative learning center selected to allow the student to progress toward meeting graduation requirements, although in another setting.

3.2.3.3 If a student's total days of removal from school exceeds 10 cumulative days in a school year, the district 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 student. The district will not pay for the assessment unless it is part of an assessment for special education purposes. The purpose of the meeting shall be to attempt to determine the student's need for assessment, other services or whether the parent or guardian should have the student assessed to determine whether the student needs treatment for a mental health disorder.

3.2.3.4 The district shall make reasonable efforts to notify the parent(s) or guardian(s) of the suspension by telephone as soon as possible following suspension.

3.2.3.5 In the event a student is suspended without an informal administrative conference on the grounds that the student will create an immediate and substantial danger to self or to surrounding persons or property, the written notice shall be served upon the student and the student's parent(s) or guardian(s) by U.S. mail within 48 hours of the conference. Service by U.S. mail is complete upon mailing. A copy will be retained as a record by the administrator.

3.2.3.6 The school may involve appropriate outside assistance, such as law enforcement personnel, as necessary.

3.2.3.7 Alternative educational services must be provided to a student who is suspended for more than five consecutive days. Alternative educational services, if the student wishes to take advantage of them, must be adequate to allow the student to make progress toward meeting graduation standards and help prepare the student for readmission.

3.3 Consecutive Suspensions – Suspension may not be consecutively imposed against the same student for the same course of conduct or incident of misconduct except in the following circumstances:

3.3.1 When the student will create an immediate and substantial danger to self or to surrounding persons or property or

3.3.2 When the district is in the process of initiating an expulsion, in which case the school administration may extend the suspension up to a total of 15 days.

3.3.3 A separate administrative conference is required for each period of suspension.

3.4 Notice of Right to be Reinstated – Whenever a student fails to return to school within 10 days of the termination of dismissal, a school administrator shall inform the student and his or her parent(s) or guardian(s) by U.S. mail of the student's right to attend and to be reinstated in the public school.

3.5 School administration must allow a suspended student the opportunity to complete all school work assigned during the period of the student's suspension and to receive full credit for satisfactorily completing the assignments. The school principal or other person having administrative control of the school building or program is encouraged to designate a district or school employee as a liaison to work with the student's teachers to allow the suspended student to (1) receive timely course materials and other information, and (2) complete daily and weekly assignments and receive teachers' feedback.

3.6 A student enrolled in kindergarten through grade 3 or a preschool or prekindergarten program, including a child participating in early childhood family education, school readiness, school readiness plus, voluntary prekindergarten, Head Start, or other school-based preschool or prekindergarten program, may not be subject to dismissals from school within the meaning of Minnesota Statutes Chapter 121A. This limitation does not apply to a dismissal from school for less than one day, except as provided under state and federal law for a student receiving special education services. Expulsions and exclusions of early learning students through grade three may be used only after other nonexclusionary disciplinary options have been exhausted and only in circumstances where there is an ongoing serious safety threat to the child or others. For purposes of this section, nonexclusionary discipline must include at least one of the following:

3.6.1 collaborating with the student's family or guardian, child mental health consultant or provider, education specialist, or other community-based support;

3.6.2 creating a plan, written with the parent or guardian, that details the action and support needed for the student to fully participate in the current educational program, including a preschool or prekindergarten program; or

3.6.3 providing a referral for needed support service, including parenting education, home visits, other supportive education interventions, or, where appropriate, an evaluation to determine if the student is eligible for special education services or section 504 services.

4. **Exclusion and Expulsion** – 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. Expulsion means a School Board action to prohibit an enrolled student from further attendance for up to 12 months from the date the student is expelled.

4.1 The School Board is the only authority which may exclude or expel a student. No exclusion or expulsion may be imposed without a hearing, unless the right to a hearing is waived in writing by the student and parent(s) or guardian(s). A Waiver of Hearing will be used for this purpose.

4.2 A Notice of Intended Action and Hearing will be handled by the superintendent or designee in the following manner:

4.2.1 Be served upon the student and his or her parent(s) or guardian(s) personally or by U.S. mail;

4.2.2 Contain a complete statement of facts, a list of witnesses and a description of their testimony;

4.2.3 State the date, time and place of the hearing;

4.2.4 Be accompanied by a copy of Minnesota Statutes 121A.40 through 121A.56, Pupil Fair Dismissal Act (Procedure 503.3P);

4.2.5 Describe nonexclusionary discipline practices accorded the student in an attempt to avoid the expulsion proceedings, and

4.2.6 Inform the student and parent(s) or guardian(s) of the right to:

4.2.6.1 Have a representative of the student's own choosing, including legal counsel, at the hearing. (The district must advise the student's parent(s) or guardian(s) 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 and is posted on their website.);

4.2.6.2 Examine the student's records before the hearing;

4.2.6.3 Present evidence, and

4.2.6.4 Confront and cross-examine witnesses.

4.3 The hearing shall be scheduled within 10 days of the service of the written notice unless an extension, not to exceed five days, is requested for good cause by the School Board, student, or parent(s) or guardian(s).

4.4 Hearing Officer – The School Board may appoint a hearing officer for exclusion or expulsion of students. The hearing officer has the power to subpoena all witnesses.

4.5 Site – The superintendent or designee shall designate the site of hearings. Clerical assistance and supplies expenses shall be borne by the district.

4.6 Hearing Procedures for Exclusion or Expulsion

4.6.1 The hearing shall be at a time and place reasonably convenient to the student and parent(s) or guardian(s).

4.6.2 The hearing shall be closed unless the student, or parent(s) or guardian(s) requests an open hearing.

4.6.3 The student shall have a right to a representative of his or her own choosing, including legal counsel. The district shall advise the student's parent(s) or guardian(s) 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.

4.6.4 The hearing shall take place before an independent hearing officer, a member of the School Board, a committee of the board, or the full board.

4.6.5 The hearing shall be conducted in a fair and impartial manner.

4.6.6 The School Board shall record the hearing proceedings at district expense.

4.6.7 Testimony shall be given under oath. The hearing officer or a member of the board shall have the power to issue subpoenas and administer oaths.

4.6.8 At a reasonable time before the hearing, the student, parent(s) or guardian(s), or his or her representative shall be given access to all public school district records pertaining to the student, including any tests or reports upon which the proposed action may be based.

4.6.9 The student, parent(s) or guardian(s), or his or her representative shall have the right to compel the attendance of any official employee or agent of the

school district or any public employee or any other person who may have evidence upon which the proposed action may be based, and to confront and cross-examine any witness testifying for the school district.

4.6.10 The student, parent(s) or guardian(s), or his or her representative shall have the right to present evidence and testimony, including expert psychological or educational testimony.

4.6.11 The student cannot be compelled to testify in the dismissal proceedings.

4.6.12 A copy of the hearing record will be made available to the student or his or her parent(s) or guardian(s) or representative in transcript form upon request and without charge.

4.6.13 The recommendation of the hearing officer, board member or committee shall be based solely on substantial evidence presented at the hearing and must be made to the board and served upon the parties within two days of the end of the hearing.

4.6.14 The School Board shall base its decision upon the recommendation of the hearing officer or board member or committee, and shall render its decision at a meeting within five days after receiving the recommendation.

4.6.14.1 The School Board may provide the parties with the opportunity to present exceptions and comments to the hearing officer's recommendations provided that neither party presents any evidence not admitted at the hearing.

4.6.14.2 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 Minnesota Commissioner of Education of the basis and reason for the decision.

4.7 Appeal

4.7.1 A party to an exclusion or expulsion decision made under Minnesota Statutes 121A.40 through 121A.56, Pupil Fair Dismissal Act may appeal the decision to the Minnesota Commissioner of Education within 21 calendar days of School Board action.

4.7.1.1 Upon being served with a notice of appeal, the district shall provide the commissioner and the parent(s) or guardian(s) with a complete copy of the hearing record within five days.

4.7.1.2 All written submissions by the appellant must be submitted and served on the respondent within 10 days of its actual receipt of the transcript.

4.7.1.3 All written submissions by the respondent must be submitted and served on the appellant within 10 days of its actual receipt of the written submissions of the appellant.

4.7.1.4 In accordance with state law, the decision of the School Board will be implemented during the appeal to the commissioner.

4.7.2 In an appeal under this section, the commissioner may affirm the decision of the agency, may remand the decision for additional findings or may reverse or modify the decision if the substantial rights of the petitioners may have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

4.7.2.1 In violation of constitutional provisions;

4.7.2.2 In excess of the statutory authority or jurisdiction of the school district;

4.7.2.3 Made upon unlawful procedure, except as provided in Minnesota Statute 121A.48, Good faith exception;

4.7.2.4 Affected by other error of law;

4.7.2.5 Unsupported by substantial evidence in view of the entire record submitted, or

4.7.2.6 Arbitrary or capricious.

4.7.3 The commissioner or his or her representative shall make a final decision based upon the record of evidence. The commissioner shall issue a decision within 30 calendar days of receiving the entire record and the parties' written submission on appeal. The commissioner's decision shall be final and binding upon the parties after the time for appeal expires under Minnesota Statute 121A.50, Judicial review.

4.8 Judicial Review – The decision of the Minnesota Commissioner of Education made under Minnesota 121A.40 through 121A.56, Pupil Fair Dismissal Act is subject to judicial review under Minnesota Statutes 14.63 to 14.69, Judicial review. The decision of the commissioner is stayed pending an appeal under this section.

4.9 Reports to Service Agency – The School Board shall report any action taken pursuant to Minnesota Statutes 121A.40 through 121A.56, Pupil Fair Dismissal Act to the appropriate public service agency, when the student is under the supervision of such agency.

4.10 Notice of Right to Be Reinstated – Whenever a student fails to return to school within 10 school days of the termination of dismissal, a school administrator shall inform the student and the student's parent(s) or guardian(s) by U.S. mail of the student's right to attend and to be reinstated in the public school.

4.11 For a student who remains enrolled in the district or is awaiting enrollment in a new district, the district has a continuing responsibility to review the student's schoolwork and grades on a quarterly basis to ensure the student is on track for readmission with the student's peers. The school district must communicate on a regular basis with the student's parent or guardian to ensure that the student is completing the work assigned through the alternative educational services as defined in section 121A.41, subdivision 11. These services are required until the student enrolls in another school or returns to the same school.

4.12 A student receiving school-based or school-linked mental health services continues to be eligible for those services until the student is enrolled in a new district.

4.13 The school district must provide information to the student's parent or guardian on accessing mental health services, including any free or sliding fee providers in the community. The information must also be posted on the district website.

5. **Student withdrawal agreement –** A student withdrawal agreement means a verbal or written agreement between a school administrator or district administrator and a student's parent or guardian to withdraw a student from the school district to avoid expulsion or exclusion dismissal proceedings. The duration of the withdrawal agreement cannot be for more than a 12-month period. A school shall not use a student withdrawal agreement without attempting to first use nonexclusionary disciplinary policies and practices except where it appears that the student will create an immediate and substantial danger to self or surrounding persons or property. A student subject to a student withdrawal agreement is entitled to the rights detailed above in paragraphs 4.11-4.13.

6. **Report to Minnesota Commissioner of Education** – The School Board shall report each exclusion or expulsion and each physical assault of a district employee by a student, and each student withdrawal agreement within 30 days of the effective date of the dismissal action, student withdrawal or assault to the Commissioner of Education through the electronic reporting system.

6.1 This report shall include a statement of nonexclusionary disciplinary practices or other sanction, intervention, or resolution in response to the assault given the student and the reason for, the effective date and the duration of the exclusion or expulsion or other sanction, intervention or resolution. The report must also include the student's age, grade, gender, race and special education status.

6.2 The School Board must include state student identification numbers of affected students on all dismissal reports required by the Minnesota Department of Education.

7. **Admission or Readmission Plan** – A school administrator must prepare and enforce an admission or readmission plan and hold a reentry meeting for any student who is suspended, excluded or expelled from school. Parents/guardians, and where appropriate, a teacher or other staff member may be invited to a reentry meeting. Interpreters shall be available for families with a primary language other than English.

   An admission/readmission plan arising out of an expulsion or exclusion shall include, where appropriate, a provision for implementing alternative educational services upon readmission, but may not be used to extend the current suspension. The plan must contain measures to improve the student's behavior which may include completing a character education program consistent with Minnesota Statute 120B.232, subd. 1 social and emotional learning, counseling, social work services, mental health services, referrals for special education or 504 evaluation, and evidence-based academic interventions. The plan must include reasonable attempts to obtain. The plan may request parental involvement in the admission or readmission process and may indicate the disciplinary responses that may result if the student does not improve the student's behavior.

   A readmission plan may include restorative measures, provisions to address the student's academic success, parent and/or student conferences with school staff, restitution, referrals to other services, and other measures determined by the administration to be designed to address the student's behavior and school engagement.

   Relevant information from a student's readmission plan will be shared with appropriate staff on a need-to-know basis.

   A school administrator or other designated staff member will communicate with the student or the parent/guardian (as appropriate) approximately two weeks following a student's readmission to school to discuss the student's reintegration into school.

8. **Notification of District Policies, Regulations and Procedures Regarding Student Removal and Dismissal –** The *Overview of Student Rights and Responsibilities* and its incorporated Administrative Regulation 503.3AR, Student Behavior Expectations and Responses for Behavior, contains additional information about district policies, regulations and procedures regarding the removal and dismissal of students. Annually, the district or principals shall:

   8.1 Ensure licensed staff members are generally familiar with the provisions in the *Overview of Student Rights and Responsibilities*;

   8.2 Distribute the *Overview of Student Rights and Responsibilities* through U.S. mail to all families with children in District 196 schools;

   8.3 Ensure all students receive an age-appropriate review of the *Overview of Student Rights and Responsibilities* at the start of the school year and in an abbreviated format at each trimester break. The review will include information about student supports, as well as clear information about expected and prohibited behavior;

   8.4 Assure placement of the *Overview of Student Rights and Responsibilities* in the registration packet for new students;

   8.5 The *Overview of Student Rights and Responsibilities* (including Administrative Regulation 503.3AR, Student Behavior Expectations and Responses for Behavior) will be translated and made available on the district's website in the district's three most common languages. A QR code to the non-English translations will be printed on the mailed *Overview of Student Rights and Responsibilities*; and

8.6 A QR code to Regulation 503.3AR, Student Behavior Expectations and Responses for Behavior will be included on the district's suspension form.

References: - Minnesota Statutes 14.63 – 14.69, Judicial review
- Minnesota Statute 120B.232, subd. 1, Character development education
- Minnesota Statutes 121A.40 - 121A.575, Pupil Fair Dismissal Act
- Minnesota Statute 121A.61, Discipline and removal of students from class
- Minnesota Rules 3525.3700-4700, due process