

## **Suspension/Expulsion of Students** (Hearing Procedures)

### **A. Procedure for suspension of 10 days or less**

Through written policy the Board has delegated to any school principal the power to suspend a student for not more than three, five, or 10 school days, depending upon the type of infraction. Pursuant to the accompanying policy, the executive director has been delegated the power to suspend a student for additional periods of time. However, the total period of suspension will not exceed 25 school days. As a general rule, a suspension will be three school days or less for students in preschool through second grade and 10 school days or less for students in third grade and higher grade levels.

The following procedures shall be followed in any suspension, unless the student is suspended pending an expulsion proceeding, in which case the expulsion procedures shall apply.

1. **Notice.** The principal, designee or the executive director at the time of contemplated action will give the student and the parent/guardian notice of the contemplated action. Such notice may be oral or in writing. If oral, such notice will be given in person. If written, delivery may be by United States mail addressed to the last known address of the student or student's parent/guardian.
2. **Contents of notice.** The notice will contain the following basic information:
  - a. A statement of the charges against the student.
  - b. A statement of what the student is accused of doing.
  - c. A statement of the basis of the allegation. Specific names may be withheld if necessary.

This information need not be set out formally but should sufficiently inform the student and parent/guardian of the basis for the contemplated action.

3. **Informal hearing.** In an informal setting, the student will be given an opportunity to admit or deny the accusation and to give his or her version of the events. The administrator may allow the student to call witnesses or may personally call the accuser or other witnesses. The administrator may hold a more extensive hearing in order to gather relevant information prior to making a decision on the contemplated action.
4. **Timing.** The notice and informal hearing should precede removal of the student from school. There need be no delay between the time notice is given and the time of the informal hearing.

5. **If the student's presence in school presents a danger.** Notice and an informal hearing need not be given prior to removal from school where a student's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process. In this case, an informal hearing will follow as soon after the student's removal as practicable.
6. **Notification following suspension.** If a student is suspended the administrator delegated the authority to suspend will immediately notify the parent/guardian that the student has been suspended, the grounds for such suspension and the period of such suspension. The notification will include the time and place for the parent/guardian to meet with the administrator to review the suspension.
7. **Removal from school grounds.** A suspended student must leave the school building and the school grounds immediately after the parent/guardian and administrator have determined the best way to transfer custody of the student to the parent/guardian.
8. **Readmittance.** No student will be readmitted to school until the meeting with the parent/guardian has taken place or until, in the opinion of the administrator, the parent/guardian has substantially agreed to review the suspension with the administrator. However, if the administrator cannot contact the parent/guardian or if the parent/guardian repeatedly fails to appear for scheduled meetings, the administrator may readmit the student. The meeting will address whether there is a need to develop a remedial discipline plan for the student in an effort to prevent further disciplinary action.
9. **Make-up work.** Suspended students will be provided an opportunity to make up school work during the period of suspension, so the student is able to reintegrate into the educational program of the BOCES following the period of suspension. Students will receive full or partial academic credit to the extent possible for makeup work which is completed satisfactorily.

## **B. Procedure for expulsion or denial of admission**

In the event the Board contemplates action denying admission to any student or prospective student or expelling any student, the following procedures shall be followed:

1. **Notice.** Not less than \_\_\_\_\_ days prior to the date of the contemplated action, the Board or an appropriate BOCES administrator will cause written notice of such proposed action to be delivered to the student and the student's parent/guardian. Such delivery may be by United States mail addressed to the last known address of the student or the student's parent/guardian.
2. **Emergency notice.** In the event it is determined that an emergency exists necessitating a shorter period of notice, the period of notice may be

shortened provided that the student or the student's parent/guardian have actual notice of the hearing prior to the time it is held.

3. **Contents of notice.** The notice will contain the following basic information:
  - a. A statement of the basic reasons alleged for the contemplated denial of admission or expulsion.
  - b. A statement that a hearing on the question of expulsion or denial of admission will be held if requested by the student or parent/guardian within \_\_\_\_ days after the date of the notice.
  - c. A statement of the date, time and place of the hearing in the event one is requested.
  - d. A statement that the student may be present at the hearing and hear all information against him or her, that the student will have an opportunity to present such information as is relevant and that the student may be accompanied and represented by a parent/guardian and an attorney.
  - e. A statement that failure to participate in such hearing constitutes a waiver of further rights in the matter.
4. **Records.** At least two business days in which school is in session prior to the expulsion hearing, all records intended to be used as supporting evidence must be provided to the student or their parent/guardian. If a record is discovered afterwards, the record must be provided to the student or their parent/guardian as soon as possible.

[*OPTION 1:* If the executive director has been delegated the authority to deny admission to and expel students, use the following option.]

5. **Conduct of hearing.** A hearing may be requested by the parent/guardian. Such hearing will be conducted by the executive director, unless the executive director was involved in investigating or reporting an incident that led to the hearing. In such a case, the executive director will delegate their ability to conduct the hearing to a designee who was not involved in investigating or reporting such an incident. The hearing may be conducted in open session or may be closed except to those individuals deemed advisable by the executive director but including in all events the student, the parent/guardian and, if requested, the student's attorney. Such individuals as may have pertinent information will be admitted to a closed hearing to the extent necessary to provide such information.

During the hearing, the BOCES will have the burden of proving by a preponderance of the evidence that the student has violated one of the grounds for expulsion in the BOCES's policy and state law. Testimony and

information may be presented under oath. However, technical rules of evidence will not be applicable, and the executive director may consider and give appropriate weight to such information or evidence he or she deems appropriate. The student's written statement, if any, may be presented as evidence in accordance with applicable law. The student or representative may question individuals presenting information.

A sufficient record of the proceedings shall be kept so as to enable a transcript to be prepared in the event either party so requests. Preparation of the transcript will be at the expense of the party requesting the same.

The executive director will prepare specific factual findings, issue a written decision within five business days after the hearing, and provide the written decision to the student or parent/guardian.

6. **Appeal.** Within 10 business days after the decision of the executive director, the student may appeal the decision to the Board. Failure to request an appeal within 10 days will result in a waiver of the right to appeal and the executive director's decision will become final.

If an appeal is properly requested, the Board will review the record concerning the expulsion or denial of admission. The record includes notices and other documents concerning the challenged action, the transcript of the testimony, if any, the hearing exhibits, the findings and recommendation of the executive director, the executive director's written decision, and other documents concerning the challenged action. The student may be represented by counsel at the appeal. Representatives of the BOCES and the parents may make brief statements to the Board, but no new evidence may be presented unless such evidence was not reasonably discoverable at the time of the hearing. Members of the Board may ask questions for purposes of clarification of the record.

The Board will make final determination regarding the expulsion or denial of admission of the student and will inform the student and the student's parent/guardian of the right to judicial review.

6. **Readmittance.** A student who has been expelled shall be prohibited from enrolling or re-enrolling in the same school in which the victim of the offense or member of the victim's immediate family is enrolled or employed when:
  - a. the expelled student was convicted of a crime, adjudicated a juvenile delinquent, received a deferred judgment or was placed in a diversion program as a result of committing the offense for which the student was expelled;
  - b. there is an identifiable victim of the expelled student's offense; and
  - c. the offense for which the student was expelled does not constitute a crime against property.

If the BOCES has no actual knowledge of the name of the victim, the expelled student shall be prohibited from enrolling or re-enrolling only upon request of the victim or a member of the victim's immediate family.

No student will be readmitted to school until after a meeting between the principal or designee and the parent/guardian has taken place except that if the administrator cannot contact the parent/guardian or if the parent/guardian repeatedly fails to appear for scheduled meetings, the administrator may readmit the student.

[END OF OPTION 1]

*[OPTION 2: If the Board has delegated the authority to conduct expulsion and denial of admission hearings to a hearing officer other than the executive director, use the following option.]*

- 5. Conduct of hearing.** A hearing may be requested by the parent/guardian. Such hearing will be conducted by a hearing officer who does not have a conflict of interest regarding the student or any alleged victim.

The hearing may be conducted in open session or may be closed except to those individuals deemed advisable by the hearing officer but including in all events the student, the parent/guardian and, if requested, the student's attorney. Such individuals as may have pertinent information will be admitted to a closed hearing to the extent necessary to provide such information.

During the hearing, the BOCES will have the burden of proving by a preponderance of the evidence that the student has violated one of the grounds for expulsion in the BOCES's policy and state law. Testimony and information may be presented under oath. However, technical rules of evidence will not be applicable, and the hearing officer may consider and give appropriate weight to such information or evidence the hearing officer deems appropriate. The student's written statement, if any, may be presented as evidence in accordance with applicable law. The student or representative may question individuals presenting information.

A sufficient record of the proceedings shall be kept so as to enable a transcript to be prepared in the event either party so requests. Preparation of the transcript will be at the expense of the party requesting the same.

The hearing officer will make specific factual findings and submit those findings and a recommendation regarding expulsion or denial of admission to the executive director. The executive director will review the hearing officer's factual findings and recommendation, issue a written decision within five business days of the hearing, and provide the written decision to the student or their parent/guardian.

- 6. Appeal.** Within 10 business days after the decision of the executive director, the student may appeal the decision to the Board. Failure to request an appeal within 10 business days will result in a waiver of the right to appeal and the executive director's decision will become final.

If an appeal is properly requested, the Board will review the record concerning the expulsion or denial of admission. The record includes notices and other documents concerning the challenged action, the transcript of the testimony, if any, the hearing exhibits, the findings and recommendation of the hearing officer, the hearing officer's written decision, and other documents concerning the challenged action. The student may be represented by counsel at the appeal. Representatives of the BOCES and the parents may make brief statements to the Board, but no new evidence may be presented unless such evidence was not reasonably discoverable at the time of the hearing. Members of the Board may ask questions for purposes of clarification of the record.

The Board will make final determination regarding the expulsion or denial of admission to the student and will inform the student and the student's parent/guardian of the right to judicial review.

**7. Readmittance.** A student who has been expelled shall be prohibited from enrolling or re-enrolling in the same school in which the victim of the offense or member of the victim's immediate family is enrolled or employed when:

- a. the expelled student was convicted of a crime, adjudicated a juvenile delinquent, received a deferred judgment or was placed in a diversion program as a result of committing the offense for which the student was expelled;
- b. there is an identifiable victim of the expelled student's offense; and
- c. the offense for which the student was expelled does not constitute a crime against property.

If the BOCES has no actual knowledge of the name of the victim, the expelled student shall be prohibited from enrolling or re-enrolling only upon request of the victim or a member of the victim's immediate family.

No student will be readmitted to school until after a meeting between the principal or designee and the parent/guardian has taken place except that if the administrator cannot contact the parent/guardian or if the parent/guardian repeatedly fails to appear for scheduled meetings, the administrator may readmit the student.

[END OF OPTION 2]

[OPTION 3: *If the Board retains the authority to expel or deny admission to a student, use the following option.*]

5. **Conduct of hearing.** A hearing may be requested by the parent/guardian. Such hearing will be conducted by the Board of Directors. The hearing may be conducted in open session or may be closed except to those

individuals deemed advisable by the Board president but including in all events the student, the parent/guardian and, if requested, the student's attorney. Such individuals as may have pertinent information will be admitted to a closed hearing to the extent necessary to provide such information.

Testimony and information may be presented under oath, and the Board will have the burden of proving by a preponderance of the evidence that the student has violated one of the grounds for expulsion in the BOCES's policy and state law. However, technical rules of evidence will not be applicable, and the Board may consider and give appropriate weight to such information or evidence it deems appropriate. The student's written statement, if any, may be presented as evidence in accordance with applicable law. The student or representative may question individuals presenting information.

A sufficient record of the proceedings shall be kept so as to enable a transcript to be prepared in the event either party so requests. Preparation of the transcript will be at the expense of the party requesting the same.

The Board may convene in executive session to review and discuss the evidence. However, the final decision will be made in public session. The Board will inform the student and the student's parent/guardian of the right to judicial review.

- 6. Readmittance.** A student who has been expelled shall be prohibited from enrolling or re-enrolling in the same school in which the victim of the offense or member of the victim's immediate family is enrolled or employed when:
- a. the expelled student was convicted of a crime, adjudicated a juvenile delinquent, received a deferred judgment or was placed in a diversion program as a result of committing the offense for which the student was expelled;
  - b. there is an identifiable victim of the expelled student's offense; and
  - c. the offense for which the student was expelled does not constitute a crime against property.

If the BOCES has no actual knowledge of the name of the victim, the expelled student shall be prohibited from enrolling or re-enrolling only upon request of the victim or a member of the victim's immediate family.

No student will be readmitted to school until after a meeting between the principal or designee and the parent/guardian has taken place except that if the administrator cannot contact the parent/guardian or if the parent/guardian repeatedly fails to appear for scheduled meetings, the administrator may readmit the student.

*[END OF OPTION 3]*

**C. Procedure for crimes of violence or unlawful sexual behavior**

The following procedures will apply when the BOCES receives notification that a student has been charged in juvenile or district court with a crime of violence or unlawful sexual behavior, as those terms are defined by state law.

1. The Board or its designee will make a preliminary determination whether it will proceed with an expulsion hearing, based on the following factors:
  - a. Whether the student has exhibited behavior that is detrimental to the safety, welfare and morals of other students or school personnel.
  - b. Whether educating the student in school may disrupt the learning environment, provide a negative example for other students or create a dangerous and unsafe environment for students, teachers and other school personnel.
2. If it is determined that the student should not be educated in the schools of the BOCES, the BOCES may suspend or expel the student, in accordance with the procedures set forth above.
3. Alternatively, suspension or expulsion proceedings may be postponed, pending the outcome of the court proceedings. If the suspension or expulsion proceedings are postponed, the student will not be permitted to return to school during that period. An appropriate alternative education program, including but not limited to, an online program authorized by state law or a home-based education program will be established for the student during the period pending the resolution of the juvenile proceedings. The time that a student spends in an alternative education program will not be considered a period of suspension or expulsion.
4. If the student pleads guilty to the charge, is found guilty or is adjudicated a delinquent juvenile, the Board or designee may proceed to suspend or expel the student following the procedures set forth in these regulations.
5. Information regarding the details of the alleged crime of violence or unlawful sexual behavior will be used by the Board or its designee for the purposes set forth in this policy, but shall remain confidential unless the information is otherwise available to the public by law.

(Adoption date)

**[Revised July 2023]**  
CASB SAMPLE REGULATION – BOCES 2015©