

SMYRNA SCHOOL DISTRICT POLICY

Section:	5000 Students	Office Responsible:	Board of Education
Policy:	5113 Suspension & Expulsion, Out of School Conduct, Scope of Code		
Related Policies:	5100 Code of Conduct and 5114 Procedure for Readmittance	Administrative Procedures:	N/A

I. Purpose

This policy provides information on the procedure that is followed by the Smyrna School District when a student is given out of school suspension and/or when a student is referred for alternative placement based on out of school conduct and/or code of conduct violation(s). This policy explains the process of the Alternative Placement Team Meeting for Alternative Placement and the Discipline Hearing for Expulsion.

II. Authority

Delaware Code, Title 14 § 614 Uniform Definitions for Student Conduct which may Result in Alternative Placement or Expulsion

III. Definitions

None

IV. Policy Statement

The Principal of any building may suspend a student from school for a period of 1-5 days for infractions of rules. A request may be made through the Superintendent or their designee to increase the out of school, short term suspension to 10 days, but may not exceed ten days. Such suspension will require that the parent return with the student on the day of readmission. A letter will be sent promptly to each parent explaining the cause and setting the date of re-entry.

- a. A Principal/Designee may refer a student for Alternative Placement for any severe disciplinary violation for which Alternative Placement may be a consequence as specified in the Student Code of Conduct and the student's behavior is within the defined conduct under *14. Del. C. § 614 Uniform Definitions for Student Conduct which may Result in Alternative Placement or Expulsion*.
- b. A Principal/Designee may refer a student for Alternative Placement in conjunction with an Attorney General's Report or court disposition that indicates that the student has been charged with a Violent Felony and/or is a threat to the health, safety, and welfare of other within the School Environment pursuant to *14. Del. C. § 614 Uniform Definitions for Student Conduct which may Result in Alternative Placement or Expulsion*.
- c. The Code of Conduct shall also apply to out-of-school conduct reports in an Attorney General's Report by a student if the District believes that the nature of such conduct indicates that the student presents a threat to the health, safety, or welfare of other students and staff.

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Such out-of-school conduct shall include, but is not limited to:

- i. Acts of violence, which are punishable by law
 - ii. Sexual offenses, which are punishable by law
 - iii. The sale, transfer or possession of drugs or drug paraphernalia, which would constitute an offense punishable by law
 - iv. Felony charges
- d. A student may be referred in conjunction with chronic disruptive behaviors which resulted in repeated violations of student code of conduct after all specific identified school based best practice interventions have been put into place for said student.
- e. Students ineligible as a result of an offense listed in *14. Del. C. § 613*. A student may be offered virtual education setting via CDAP if available.
- f. Referral to a state funded Consortium Discipline Alternative Program must also meet the criteria set forth in *14. Del. C. § 611 Consortium Discipline Alternative Programs for Treatment of Severe Discipline Problems*.

Student Referral for Alternative Placement Process

The following procedures shall be followed by Administrators when investigating a code of conduct violation that could result in a referral for alternative placement/expulsion in accordance with *14. Del. C. § 616*:

- a. The Principal/Designee shall conduct a preliminary investigation to determine if there is reasonable basis to pursue disciplinary action. This investigation shall be complete within 3 school days of the incident.
- b. If the preliminary investigation verifies that disciplinary action may be warranted, initial due process procedures shall be followed including:

A student shall be afforded initial due process rights for discipline procedures which result in the removal of a student for one day or more from regular school program due to a violation of the school's student code of conduct. These rights shall be afforded prior to any removal of one day or more from the regular school program:

- i. The student had prior opportunity to be informed in accordance with the established student code of conduct rules and/or regulations.
- ii. Administrator shall inform the student, orally and in writing within three days at completion of the administrative investigation, the allegations(s) against him/her, the conduct which forms the basis of the allegations(s), and the policy, rule, or regulation violated
- iii. The student shall be given an explanation of evidence supporting the allegation(s) and an opportunity to present his/her side of the story including any evidence

*** Due Process Delay Provision:** A student whose presence in the school environment poses a threat to the health, safety, or welfare to persons or property within the school environment, as determined by the Principal, may be immediately removed from the school provided that, as soon

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as practicable, the initial due process procedures outlined in subsection 41. Of 616 are followed.

- c. After the student has been afforded initial due process procedures, and if the Principal/Designee decides that disciplinary action will be taken, the student and parent/guardian shall be notified.
- d. If the Principal/Designee decides that the disciplinary action should be a referral for an alternative placement, the Principal/Designee shall hold a *Building Level Conference* with the parent/guardian and the student. The conference shall be held by phone or in person. The Principal/Designee shall have at least one other person present to take notes during the conference or shall have the conference audio recorded. The Principal/Designee shall explain to the parent and the student the purpose of the meeting is to inform them: a. of the referral for alternative placement; b. that the student may be suspended pending the outcome of the *Alternative Placement Team Meeting* and; c. of the procedures that will take place as follow-up to the referral for alternative placement.

Alternative Placement Team Meeting

- a. The Principal/Designee will notify the School Climate and Safety Supervisor of the referral for alternative placement once the decision is made to refer to Alternative Placement. *An Alternative Placement Team Meeting will be scheduled and conducted pursuant to 14. Del. C. §616 Uniform Due Process Procedures for Alternative Placement Meetings and Expulsion Hearings: 7.0 Assignment to Alternative Placement; 7.3 Alternative Placement Meeting for Districts/Charter Schools.*
- b. An Alternative Placement Team Meeting shall take place to determine if an alternative setting is appropriate for a referred student.
- c. If a decision is to assign a student to an alternative placement, the District will notify the student/family verbally within one (1) business day of the decision. The District shall send a follow-up written notice within three (3) business days to the parent describing the circumstances which lead to the placement, identifying the alternative program to which the student is being assigned, and the conditions which must be met in order for the student to return to the regular school program.
- d. If the Parent/Guardian wishes to appeal the *Alternative Placement Team Meeting* decision, it must be done in writing to the Superintendent's office no later than five (5) business days following the *Alternative Placement Team Meeting*.

Expulsion Hearing

- a. If the Parent/Guardian wishes to appeal the *Alternative Placement Team Meeting* decision, it must be done in writing to the Superintendent's office no later than (5) business days following the *Alternative Placement Team Meeting*.
- b. An Expulsion Hearing would be scheduled no later than 3 days of written receipt of the appeal letter. Due process for expulsion hearings per Regulation 600 would be initiated and followed at the family's request for the Expulsion hearing via the appeal of the Alternative Placement Team Meeting decision.
- c. The Smyrna School Board shall vote on the finding of facts and recommendation of the third-party Hearing Officer pursuant to 14. Del. C. §616 *Uniform Due Process Procedures for*

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Alternative Placement Meetings and Expulsion Hearings; 10.0 Procedures for the Expulsion of Students.

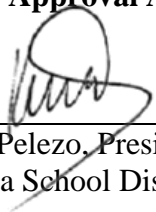
- d. An Expulsion shall only result from Smyrna School Board action.

Scope of the Code of Conduct

- a. The following Discipline Code of Conduct is in force:
- i. On school property prior to, during, and following regular school hours;
 - ii. On a school bus for any purpose. Infractions may result in removal from bus;
 - iii. At all Smyrna School District sponsored events and other activities at which school administrators or staff have jurisdiction over students;
 - iv. Off school property resulting in criminal charges.
- b. The Discipline Code of Conduct shall apply to out-of-school conduct by a student if the District believes that the nature of such conduct indicates that the student presents a threat to the health, safety, or welfare of other students and staff. Out-of-school conduct rising to this level of severity may result in an expulsion recommendation of up to/including 180 school days and shall include but is not limited to:
- i. Acts of violence, which are punishable by law.
 - ii. Sexual offenses, which are punishable by law.
 - iii. The sale, transfer or possession of drugs and drug paraphernalia, which would constitute an offense punishable by law.
 - iv. Felony charges.
- c. If a student with a disability, as defined by Federal and State law and regulations, is recommended for a disciplinary removal from school for more than ten (10) school days, either consecutively or cumulatively, in any one school year, or in an alternative placement or expulsion is being recommended, a meeting of the student's IEP or Section 504 team shall be conducted.
- d. The Smyrna School District reserves the right to move straight to an Expulsion Hearing if necessary based on the circumstances of the Code of Conduct violation and/or per Delaware law or regulation.

**Italics indicate Delaware Regulation Administrative Code Title 14 wording*

Board Approval Acknowledged by:



Kristi Pelezo, President
Smyrna School District Board of Education

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Policy Actions

Adopted: 11/04/2004

Revised: 08/17/2022

Revised: 07/12/2023