

Chapter 392-400 WAC

STUDENT DISCIPLINE

(Formerly chapter 180-40 WAC)

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- 392-400-215 Student rights. [Statutory Authority: RCW 28A.600.-015. WSR 14-15-153, § 392-400-215, filed 7/23/14, effective 8/23/14. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-215, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.132. WSR 85-04-009 (Order 3-85), § 180-40-215, filed 1/25/85; Order 6-77, § 180-40-215, filed 6/2/77, effective 8/1/77.] Repealed by WSR 18-16-081, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211.
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- 392-400-290 Emergency removal from a class, subject, or activity. [Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-290, filed 7/23/14, effective 8/23/14. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-290, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-290, filed 6/2/77, effective 8/1/77.] Repealed by WSR 18-16-081, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211.
- 392-400-325 Statewide definition of excused and unexcused daily absences. [Statutory Authority: RCW 28A.300.046. WSR 12-17-051, § 392-400-325, filed 8/9/12, effective 9/9/12.] Repealed by WSR 18-11-011, filed 5/3/18, effective 8/1/18. Statutory Authority: RCW 28A.300.046.
- 392-400-420 Reengagement meetings and plans. [Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-420, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-420, filed 7/23/14, effective 8/23/14.] Repealed by WSR 18-16-081, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211.

WAC 392-400-010 Purpose. The purpose of this chapter is to ensure that school districts in Washington:

- (1) Provide due process to students;
- (2) Implement culturally responsive discipline policies and procedures that provide opportunity for all students to achieve personal and academic success;
- (3) Engage school personnel, students, parents, families, and the community in decisions related to the development and implementation of discipline policies and procedures;

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(4) Ensure fairness and equity in the administration of discipline;

(5) Administer discipline in ways that respond to the needs and strengths of students, support students in meeting behavioral expectations, and keep students in the classroom to the maximum extent possible;

(6) Provide educational services that students need to complete their education without disruption;

(7) Facilitate collaboration between school personnel, students, and families to ensure successful reentry into the classroom following a suspension or expulsion; and

(8) Provide a safe and supportive learning environment for all students.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-010, filed 7/30/18, effective 8/31/18.]

WAC 392-400-015 Authority. The authority for this chapter is RCW 28A.600.015 and 28A.600.020, which require the office of superintendent of public instruction to establish rules that prescribe the substantive and procedural due process rights of students served by any program or activity conducted by, or on behalf of, school districts.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-015, filed 7/30/18, effective 8/31/18.]

WAC 392-400-020 Application. (1) This chapter establishes the minimum procedural and substantive due process rights of students when they may be subject to discipline in Washington school districts. A school district may establish additional due process protections for students consistent with federal statutes and regulations, state statutes, common law, and rules prescribed by the office of superintendent of public instruction.

(2) This chapter must be construed in a manner consistent with the following laws and rules:

(a) RCW 28A.600.010 through 28A.600.022 and 28A.320.211, regarding the administration of student discipline;

(b) RCW 28A.300.042, regarding the collection, reporting, and disaggregation of student-level discipline data;

(c) Chapter 392-190 WAC, prohibiting unlawful discrimination in Washington public schools, including the requirement under WAC 392-190-048 that school districts annually review disaggregated discipline data to identify and address disproportionality in the administration of discipline on the basis of sex, race, limited-English proficiency (i.e., English learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and Part B of the Individuals with Disabilities Education Act;

(d) WAC 392-172A-05140 through 392-172A-05175, and 34 C.F.R. Part 300.530 through 300.536, regarding the discipline of students with disabilities under the Individuals with Disabilities Education Act;

(e) RCW 28A.165.035, regarding the state menu of best practices and strategies for behavior; and

(f) RCW 28A.415.410 and 28A.415.420, regarding training to support school personnel in implementing discipline policies and procedures and gaining knowledge and skills in cultural competence.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-020, filed 7/30/18, effective 8/31/18.]

WAC 392-400-023 Definitions. As used in this chapter the terms:

(1) "Behavioral violation" means a student's behavior that violates a school district's discipline policy adopted under WAC 392-400-225.

(2) "Classroom exclusion" means the exclusion of a student from a classroom or instructional or activity area for behavioral violations, subject to the requirements in WAC 392-400-330 and 392-400-335. Classroom exclusion does not include actions that result in missed instruction for a brief duration when:

(a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and

(b) The student remains under the supervision of the teacher or other school personnel during such brief duration.

(3) "Corrective action" means discipline, classroom exclusion, suspension, emergency expulsion, or expulsion.

(4) "Culturally responsive" has the same meaning as "cultural competency" in RCW 28A.410.270.

(5) "Discipline" and "other forms of discipline" mean all forms of corrective action used in response to behavioral violations, other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(6) "Discretionary discipline" means a disciplinary action taken by a school district for student behavior that violates rules of student conduct adopted by a school district board of directors under RCW 28A.600.010 and 28A.600.015, but does not constitute action taken in response to any of the following:

(a) A violation of RCW 28A.600.420;

(b) An offense in RCW 13.04.155;

(c) Two or more violations of RCW 9A.46.120, 9A.41.280, 28A.600.455, 28A.635.020, or 28A.635.060 within a three-year period; or

(d) Behavior that adversely impacts the health or safety of other students or educational staff.

(7) "Disruption of the educational process" means the interruption of classwork, the creation of disorder, or the invasion of the rights of a student or group of students.

(8) "Emergency expulsion" means an emergency removal from school for up to, and not exceeding, ten consecutive school days from the student's current school placement by a school district superintendent or a designee of the superintendent. The superintendent or designee must have good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to other students or school staff or an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion must end or be converted to another form of corrective action within ten school days from the date of the emergency removal from school.

(9) "Expulsion" means a denial of attendance for a period of time up to, but not longer than, the length of an academic term, as defined by the school board, from the time a

student is removed from his or her current school placement by a school district superintendent or a designee of the superintendent. An expulsion also may include a denial of admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the school district.

(10) "Length of an academic term" means the total number of school days in a single trimester or semester, as defined by the school board.

(11) "Long-term suspension" means a suspension that:

(a) Exceeds ten school days and has an end date of not more than the length of an academic term, as defined by the school board, from the time of corrective action;

(b) Cannot be imposed in such a manner that causes the student to lose academic grades or credit in excess of one semester or trimester during the same school year; and

(c) Cannot be imposed beyond the school year in which the alleged misbehavior occurs.

(12) "Parent" has the same meaning as in WAC 392-172A-01125.

(13) "School business day" means any calendar day, exclusive of Saturdays, Sundays, and any federal and school holidays, upon which the office of the superintendent of the school district is open to the public for the conduct of business. A school business day shall be concluded or terminated upon the closure of said office for the calendar day.

(14) "School day" means a calendar day except school holidays on which students enrolled in the school district are afforded the opportunity to be engaged in educational activity which is planned, supervised, and conducted by or under the supervision of the school district certificated staff, and on which day all or any portion of the students enrolled in the program actually participate in such educational activity.

(15) "Short-term suspension" means a suspension for any portion of a calendar day up to and not exceeding ten consecutive school days.

(16) "Suspension" means a denial of attendance in response to a behavioral violation from any subject or class, or from any full schedule of subjects or classes, but not including classroom exclusions, expulsions, or emergency expulsions.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-023, filed 7/30/18, effective 8/31/18.]

WAC 392-400-025 Definitions. As used in this chapter the terms:

(1) "Behavioral violation" means a student's behavior that violates a school district's discipline policy adopted under WAC 392-400-110.

(2) "Classroom exclusion" means the exclusion of a student from a classroom or instructional or activity area for behavioral violations, subject to the requirements in WAC 392-400-330 and 392-400-335. Classroom exclusion does not include actions that result in missed instruction for a brief duration when:

(a) A teacher or other school personnel attempts other forms of discipline to support the student in meeting behavioral expectations; and

(b) The student remains under the supervision of the teacher or other school personnel during such brief duration.

(3) "Culturally responsive" has the same meaning as "cultural competency" in RCW 28A.410.270.

(4) "Discipline" means any action taken by a school district in response to behavioral violations.

(5) "Disruption of the educational process" means the interruption of classwork, the creation of disorder, or the invasion of the rights of a student or group of students.

(6) "Emergency expulsion" means the removal of a student from school because the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process, subject to the requirements in WAC 392-400-510 through 392-400-530.

(7) "Expulsion" means a denial of admission to the student's current school placement in response to a behavioral violation, subject to the requirements in WAC 392-400-430 through 392-400-480.

(8) "Length of an academic term" means the total number of school days in a single trimester or semester, as defined by the school board.

(9) "Other forms of discipline" means actions used in response to behavioral violations, other than classroom exclusion, suspension, expulsion, or emergency expulsion, which may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(10) "Parent" has the same meaning as in WAC 392-172A-01125.

(11) "School business day" means any calendar day, except Saturdays, Sundays, or any federal, state, or school holiday, when the office of the superintendent of a school district is open to the public for business.

(12) "School board" means the governing board of directors of a local school district.

(13) "School day" means any day or partial day that students are in attendance at school for instructional purposes.

(14) "Suspension" means a denial of attendance in response to a behavioral violation from any subject or class, or from any full schedule of subjects or classes, but not including classroom exclusions, expulsions, or emergency expulsions.

(a) "In-school suspension" means a suspension in which a student is excluded from the student's regular educational setting but remains in the student's current school placement for up to ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(b) "Long-term suspension" means a suspension in which a student is excluded from school for more than ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

(c) "Short-term suspension" means a suspension in which a student is excluded from school for up to ten consecutive school days, subject to the requirements in WAC 392-400-430 through 392-400-475.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-025, filed 7/30/18, effective 7/1/19.]

DISCIPLINE POLICIES AND PROCEDURES

WAC 392-400-110 Discipline policies and procedures—Development, review, and distribution. (1) **School district policies and procedures beginning in the 2019-20 school year.** Before the commencement of the 2019-20 school year, a school district must adopt written policies and procedures for supporting students in meeting behavioral expectations and administering discipline in accordance with this chapter. The policies and procedures must:

(a) Clearly state the types of behaviors for which discipline, including suspension and expulsion, may be administered;

(b) Have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process that is conducive to learning;

(c) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations;

(d) Provide that school personnel make every reasonable attempt to involve parents and students in the resolution of behavioral violations for which discipline may be administered;

(e) Identify other forms of discipline that school personnel should administer before or instead of administering classroom exclusion, suspension, or expulsion to support students in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035;

(f) Identify school personnel with the authority to administer classroom exclusions, suspensions, expulsions, emergency expulsions, and other forms of discipline;

(g) Establish appeal and review procedures related to the administration of suspensions, expulsions, and emergency expulsions, consistent with WAC 392-400-430 through 392-400-530;

(h) Establish grievance procedures to address parents' or students' grievances related to the administration of classroom exclusions and other forms of discipline, including discipline that excludes a student from transportation or extracurricular activity. The procedures must, at a minimum, include an opportunity for the student to share the student's perspective and explanation regarding the behavioral violation;

(i) Describe the types of educational services the school district offers to students during a suspension or expulsion and the procedures to be followed for the provision of educational services under WAC 392-400-610;

(j) Provide for reengagement meetings and plans, consistent with WAC 392-400-710;

(k) Provide a process for students who have been suspended or expelled to petition for readmission; and

(l) Be consistent with the model policy developed under RCW 28A.345.090.

(2) **Development and review.** A school district must develop and periodically review discipline policies and procedures with the participation of school personnel, students, parents, families, and the community. During the development and review of discipline policies and procedures, the

school district must use disaggregated data collected under RCW 28A.300.042 to:

(a) Monitor the impact of the school district's discipline policies, procedures, and practices; and

(b) Update the school district's discipline policies and procedures to improve fairness and equity in the administration of discipline.

(3) **Distribution of policies and procedures.** A school district must make discipline policies and procedures available to families and the community. The school district must annually provide the district's discipline policies and procedures to all district personnel, students, and parents, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964. The school district must ensure district employees and contractors are knowledgeable of the discipline policies and procedures.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-110, filed 7/30/18, effective 7/1/19.]

WAC 392-400-225 School district rules defining misconduct—Distribution of rules. (1) It shall be the responsibility and duty of each school district to adopt, publish, and make available to all students and parents written rules which state with reasonable clarity the types of misconduct for which discipline, suspension, and expulsion may be imposed. In addition, written procedures for administering corrective action shall be developed and reviewed periodically as follows:

(a) Each school district shall provide for the development with parent and community participation of written procedures for administering corrective action at each school as required by RCW 28A.600.020(3).

(b) In a manner consistent with the district procedures developed pursuant to (a) above, the principal and certificated employees in each school building shall confer at least annually for the purpose of developing, or reviewing, or both, building discipline standards and the uniform enforcement of those standards, as required by RCW 28A.400.110.

(c) School districts shall use disaggregated data collected pursuant to RCW 28A.300.042 to monitor the impact of the school district's discipline policies and procedures, as required by WAC 392-190-048.

(d) School districts, in consultation with school district staff, students, families, and the community, shall periodically review and update their discipline rules, policies, and procedures.

(2) Rules that establish types of misconduct pursuant to this section must have a real and substantial relationship to the lawful maintenance and operation of the school district including, but not limited to, the preservation of the health and safety of students and employees and the preservation of an educational process which is conducive to learning.

(3) The rules set forth in this chapter, the rules of a school district that establish types of misconduct pursuant to subsection (1) above, and the written procedures of a district for administering corrective action adopted pursuant to subsection (1)(a) and (d) of this subsection, shall be published and made available to all students and parents on an annual basis. School districts shall annually disseminate discipline

policies and procedures to students, families, and the community.

[Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-225, filed 8/26/16, effective 9/1/16. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-225, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-40-225, filed 8/6/90, effective 9/6/90. Statutory Authority: 1980 c 171. WSR 80-10-030 (Order 11-80), § 180-40-225, filed 8/4/80; Order 6-77, § 180-40-225, filed 6/2/77, effective 8/1/77.]

WAC 392-400-226 School district rules defining harassment, intimidation and bullying prevention policies and procedures—Distribution of rules. A district's harassment, intimidation and bullying policy and procedure shall be published and made available to all parents or guardians, students, employees, and volunteers on an annual basis. The district will publish, at a minimum, the following materials: Policy and procedure, an incident reporting form and current contact information for the district's harassment, intimidation and bullying compliance officer. If a school district chooses not to distribute such rules to all parents or guardians, students, employees, and volunteers, then notice which describes the contents of such rules and specifies the person(s) to contact for a copy shall be provided to students and parents on an annual basis in a manner reasonably calculated to come to their attention.

[Statutory Authority: RCW 28A.300.285. WSR 11-04-076, § 392-400-226, filed 1/31/11, effective 3/3/11.]

DISCIPLINE, SUSPENSION, AND EXPULSION RULES

WAC 392-400-230 Persons authorized to impose discipline, suspension, or expulsion upon students. (1) Each certificated teacher, each school administrator, each school bus driver, and any other school employee designated by the board of directors of a school district shall possess the authority to impose discipline upon a student for misconduct which violates rules of the school district established pursuant to WAC 392-400-225.

(2) The board of directors of any school district may delegate to the superintendent and/or his or her designee(s) the authority to impose suspensions and expulsions upon students for misconduct which violates rules of the school district established pursuant to WAC 392-400-225. Each certificated teacher and each administrator shall possess the authority to recommend suspensions and expulsions for such misconduct.

(3) Any board of directors which chooses not to delegate the authority to impose suspensions and/or expulsions, nevertheless, shall be subject to the requirements set forth in this chapter when it imposes a suspension or expulsion.

(4) Notwithstanding any provision of this section to the contrary, each teacher is empowered to exclude any student who creates a disruption of the educational process in violation of the building disciplinary standards while under the teacher's immediate supervision from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: Provided, That except in emergency circumstances as provided for in WAC 392-400-290, the teacher shall have first

attempted one or more alternative forms of corrective action: Provided further, That in no event without the consent of the teacher shall an excluded student be returned during the balance of the particular class or activity period from which the student was initially excluded.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-230, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-230, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-230, filed 6/22/06, effective 6/22/06. Statutory Authority: 1980 c 171. WSR 80-10-030 (Order 11-80), § 180-40-230, filed 8/4/80; Order 6-77, § 180-40-230, filed 6/2/77, effective 8/1/77.]

WAC 392-400-233 Absences, tardiness, and school meals. (1) **Absences and tardiness.** A school district may not suspend or expel a student from school for absences or tardiness.

(2) **School meals.** A school district may not administer a corrective action in a manner that would result in the denial or delay of a nutritionally adequate meal to a student.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-233, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-233, filed 7/23/14, effective 8/23/14.]

DISCIPLINE

WAC 392-400-235 Discipline—Conditions and limitations. Discipline may be imposed upon any student for violation of the rules of the school district that have been established pursuant to this section, subject to the following limitations and conditions and the grievance procedure set forth in WAC 392-400-240:

(1) No form of discipline shall be enforced in such a manner as to prevent a student from accomplishing specific academic grade, subject, or graduation requirements.

(2) School districts may not suspend the provision of educational services to a student as a disciplinary action.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-235, filed 7/30/18, effective 8/31/18. Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-235, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-235, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-235, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-235, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.410.010. WSR 94-03-102 (Order 3-94), § 180-40-235, filed 1/19/94, effective 2/19/94. Statutory Authority: RCW 28A.305.160. WSR 93-01-077, § 180-40-235, filed 12/14/92, effective 1/14/93. Statutory Authority: RCW 28A.04.132. WSR 90-17-004, § 180-40-235, filed 8/2/90, effective 9/2/90; WSR 87-09-040 (Order 6-87), § 180-40-235, filed 4/14/87; Order 6-77, § 180-40-235, filed 6/2/77, effective 8/1/77.]

WAC 392-400-240 Discipline—Grievance procedure. Any student, parent, or guardian who is aggrieved by the imposition of discipline shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the build-

ing level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 392-400-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The discipline action shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

[Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-240, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-240, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-240, filed 7/22/96, effective 8/22/96; Order 6-77, § 180-40-240, filed 6/2/77, effective 8/1/77.]

SHORT-TERM SUSPENSION

WAC 392-400-245 Short-term suspension—Conditions and limitations. A short-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the prior informal conference procedures set forth in WAC 392-400-250, and the grievance procedures set forth in WAC 392-400-255:

(1) The nature and circumstances of the violation must be considered and must reasonably warrant a short-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) short-term suspension is not established as the corrective action for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (2) of this section.

(2) As a general rule, no student shall be suspended for a short term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to short-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers may grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged, following consultation with an ad-

hoc citizens committee, to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to short-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to short-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(3) No student in grades kindergarten through grade four shall be subject to short-term suspensions for more than a total of ten school days during any single semester or trimester as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(4) No student in the grade five and above program shall be subjected to short-term suspensions for more than a total of fifteen school days during any single semester or ten school days during any single trimester, as the case may be.

(5) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension. Any student subject to a short-term suspension shall be provided the opportunity upon his or her return to make up assignments and tests missed by reason of the short-term suspension if:

(a) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(b) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(6) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

[Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-245, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-245, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-245, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-245, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 97-01-047, § 180-40-245, filed 12/12/96, effective 1/12/97. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-40-245, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.132. WSR 85-12-042 (Order 14-85), § 180-40-245, filed 6/5/85. Statutory Authority: 1979 1st ex.s. c 173 and c 201. WSR 79-11-049 (Order 14-79), § 180-40-245, filed 10/16/79; Order 13-77, § 180-40-245, filed 10/18/77; Order 6-77, § 180-40-245, filed 6/2/77, effective 8/1/77.]

WAC 392-400-250 Short-term suspension—Prior conference required—Notice to parent. (1) Prior to the short-term suspension of any student a conference shall be conducted with the student as follows:

(a) An oral or written notice of the alleged misconduct and violation(s) of school district rules shall be provided to the student;

(b) An oral or written explanation of the evidence in support of the allegation(s) shall be provided to the student;

(c) An oral or written explanation of the corrective action which may be imposed shall be provided to the student; and

(d) The student shall be provided the opportunity to present his/her explanation.

(2) In the event a short-term suspension is to exceed one calendar day, the parent(s) or guardian(s) of the student shall be notified of the reason for the student's suspension and the duration of the suspension orally and/or by letter deposited in the United States mail as soon as reasonably possible. The notice shall also inform the parent or guardian of the right to an informal conference pursuant to WAC 392-400-255 and that the suspension may possibly be reduced as a result of such conference.

(3) All short-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-250, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-250, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-250, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-250, filed 6/2/77, effective 8/1/77.]

WAC 392-400-255 Short-term suspension—Grievance procedure. Any student, parent, or guardian who is aggrieved by the imposition of a short-term suspension shall have the right to an informal conference with the building principal or his or her designee for the purpose of resolving the grievance. The employee whose action is being grieved shall be notified of the initiation of a grievance as soon as reasonably possible. During such conference the student, parent, or guardian shall be subject to questioning by the building principal or his or her designee and shall be entitled to question school personnel involved in the matter being grieved. Subsequent to the building level grievance meeting, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the superintendent of the district or his/her designee. If the grievance is not resolved, the student, parent, or guardian, upon two school business days' prior notice, shall have the right to present a written and/or oral grievance to the board of directors during the board's next regular meeting or to the school district disciplinary appeal council if the board has delegated its responsibility to hear and decide such grievances to the council pursuant to WAC 392-400-317. The board or council shall notify the student, parent, or guardian of its response to the grievance within ten school business days after the date of the meeting. The short-term suspension shall continue notwithstanding the implementation of the grievance procedure set forth in this section unless the principal or his or her designee elects to postpone such action.

[Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-255, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-255, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-255, filed 7/22/96, effective 8/22/96; Order 6-77, § 180-40-255, filed 6/2/77, effective 8/1/77.]

LONG-TERM SUSPENSION

WAC 392-400-260 Long-term suspension—Conditions and limitations. A long-term suspension may be imposed upon a student for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions and the notice requirements set forth in WAC 392-400-265 and the hearing requirements set forth in WAC 392-400-270:

(1) School districts may not impose long-term suspension as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension, but the school district must provide an opportunity for a student to receive educational services during a period of suspension.

(3) The nature and circumstances of the violation must be considered and must reasonably warrant a long-term suspension and the length of the suspension imposed. This requirement does not preclude the boards of directors of school districts from establishing the nature and extent of the corrective actions which, as a general rule, must be imposed as a consequence of proscribed misconduct. Such advance notice to students is advisable, and the imposition of such preestablished corrective action is permissible as long as (a) disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, and (b) long-term suspension is not established as the corrective action for a student's first time offense other than for offenses involving exceptional misconduct as defined in subsection (4) of this section.

(4) As a general rule, no student shall be suspended for a long term unless another form of corrective action reasonably calculated to modify his or her conduct has previously been imposed upon the student as a consequence of misconduct of the same nature. A school district may, however, elect to adopt rules providing for the immediate resort to long-term suspension in cases involving exceptional misconduct as long as disciplinarians and hearing officers are allowed to grant exceptions in cases involving extenuating or exceptional circumstances, notwithstanding the fact prior alternative corrective action has not been imposed upon the student(s) involved. For the purpose of this rule, "exceptional misconduct" means misconduct other than absenteeism which a school district has judged following consultation with an ad hoc citizens committee to (a) be of such frequent occurrence, notwithstanding past attempts of district staff to control such misconduct through the use of other forms of corrective action, as to warrant an immediate resort to long-term suspension, or (b) be so serious in nature or so serious in terms of the disruptive effect upon the operation of the school(s) as to warrant an immediate resort to long-term suspension. The ad hoc citizens committee required by this section shall be composed of three or more persons chosen by the school district or the administrative designee(s) of the district, and shall be constituted with the intent and purpose of representing various socioeconomic, minority and majority populations of the school district to the extent deemed practical.

(5) No student in grades kindergarten through four shall be subject to long-term suspension during any single semester or trimester, as the case may be, and no loss of academic grades or credit shall be imposed by reason of the suspension of such a student.

(6) No single long-term suspension shall be imposed upon a student in the grade five and above program in a manner which causes the student to lose academic grades or credit for in excess of one semester or trimester, as the case may be, during the same school year.

(7) Any student who has been suspended shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(8) All long-term suspensions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the suspension.

[Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-260, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-260, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-260, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-260, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 97-08-019, § 180-40-260, filed 3/25/97, effective 4/25/97. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 97-01-047, § 180-40-260, filed 12/12/96, effective 1/12/97. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-40-260, filed 8/6/90, effective 9/6/90. Statutory Authority: RCW 28A.04.132. WSR 85-12-042 (Order 14-85), § 180-40-260, filed 6/5/85. Statutory Authority: 1979 1st ex.s. c 173 and c 201. WSR 79-11-049 (Order 14-79), § 180-40-260, filed 10/16/79; Order 6-77, § 180-40-260, filed 6/2/77, effective 8/1/77.]

WAC 392-400-265 Long-term suspension—Notice of hearing—Waiver of hearing. (1) Prior to the long-term suspension of a student, written notice of an opportunity for a hearing shall be delivered in person or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, in accordance with Title VI of the Civil Rights Act of 1964;

(b) Specify the alleged misconduct and the school district rule(s) alleged to have been violated;

(c) Set forth the corrective action proposed;

(d) Set forth the right of the student and his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s); and

(e) Set forth the facts that:

(i) A written or oral request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing; and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed long-term suspension may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business

days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted in writing and may also be accepted orally.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed long-term suspension may be imposed.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-265, filed 7/23/14, effective 8/23/14. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-265, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-265, filed 6/2/77, effective 8/1/77.]

WAC 392-400-270 Long-term suspension—Prehearing and hearing process. (1) If a request for a hearing is received pursuant to WAC 180-40-265 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing;

(b) Be represented by legal counsel;

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness.

(d) Present his or her explanation of the alleged misconduct; and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect, in advance of the hearing, any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the final decision regarding the imposition of corrective action shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the nature and duration of the long-term suspension or lesser form or corrective action to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-270, filed 7/23/14, effective 8/23/14. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-270, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 00-07-018, § 180-40-270, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-270, filed 6/2/77, effective 8/1/77.]

EXPULSION

WAC 392-400-275 Expulsion—Conditions and limitations. A student may be expelled for violation of school district rules adopted pursuant to WAC 392-400-225, subject to the following limitations or conditions, the notice requirements set forth in WAC 392-400-280, and the hearing requirements set forth in WAC 392-400-285:

(1) School districts may not impose expulsion as a form of discretionary discipline as defined in WAC 392-400-205(11).

(2) A student may be excluded from a particular classroom or instructional or activity area for the period of suspension or expulsion, but the school district must provide an opportunity for a student to receive educational services during a period of suspension or expulsion.

(3) The nature and circumstances of the violation must reasonably warrant the harshness of expulsion.

(4) No student shall be expelled unless other forms of corrective action reasonably calculated to modify his or her conduct have failed or unless there is good reason to believe that other forms of corrective action would fail if employed.

(5) An expulsion may not be for an indefinite period of time. An expulsion may not exceed the length of an academic term, as defined by the school board, from the date of the corrective action unless:

(a) The school petitions the district superintendent for an extension; and

(b) The district superintendent authorizes the extension in compliance with the superintendent of public instruction's rules adopted for this purpose.

(6) The district shall make reasonable efforts to assist students in returning to an educational setting prior to, and no later than, the end date of the corrective action.

(7) Once a student has been expelled in compliance with this chapter, the expulsion shall be brought to the attention of appropriate local and state authorities including, but not limited to, juvenile authorities acting pursuant to chapter 13.04 RCW in order that such authorities may address the student's educational needs.

(8) Any student who has been expelled shall be allowed to make application for readmission at any time. Each school district board of directors shall adopt written rules which provide for such an application for readmission and set forth the procedures to be followed.

(9) All expulsions and the reasons therefor shall be reported in writing to the superintendent of the school district or his or her designee within twenty-four hours after the imposition of the expulsion.

[Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-275, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-275, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-275, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-275, filed 6/22/06, effective 6/22/06. Statutory Authority: 1990 c 33. WSR 90-17-009, § 180-40-275, filed 8/6/90, effective 9/6/90. Statutory Authority: 1979 1st ex.s. c 173 and c 201. WSR 79-11-049 (Order 14-79), § 180-40-275, filed 10/16/79; Order 6-77, § 180-40-275, filed 6/2/77, effective 8/1/77.]

WAC 392-400-280 Expulsion—Notice of hearing—Waiver of hearing. (1) Prior to the expulsion of a student, an oral or written notice of an opportunity for a hearing shall be delivered in person, or by certified mail to the student and to his or her parent(s) or guardian(s). The notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, in accordance with Title VI of the Civil Rights Act of 1964;

(b) Specify the alleged misconduct and the school district rule(s) or policy alleged to have been violated;

(c) Set forth the corrective action proposed;

(d) Set forth the right of the student and his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s); and

(e) Set forth the facts that:

(i) A written or oral request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing; and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived and the proposed expulsion may be imposed by the school district without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice; and

(2) The student or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing and may be accepted orally.

(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the proposed expulsion may be imposed.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-280, filed 7/23/14, effective 8/23/14. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-280, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-280, filed 6/2/77, effective 8/1/77.]

WAC 392-400-285 Expulsion—Prehearing and hearing process. (1) If a request for a hearing is received pursuant to WAC 392-400-280 within the required three school business days, the school district shall schedule a hearing to commence within three school business days after the date upon which the request for a hearing was received.

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(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing;

(b) Be represented by legal counsel;

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness.

(d) Present his or her explanation of the alleged misconduct; and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect, in advance of the hearing, any documentary and other physical evidence which the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and the final decision regarding the imposition of corrective action shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) A written decision setting forth the findings of fact, conclusions, and the expulsion or lesser form of corrective action to be imposed, if any, shall be provided to the student's legal counsel or, if none, to the student and his or her parent(s) or guardian(s).

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-285, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-285, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-285, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 00-07-018, § 180-40-285, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-285, filed 6/2/77, effective 8/1/77.]

EMERGENCY ACTIONS

WAC 392-400-295 Emergency expulsion—Limitations. Notwithstanding any other provision of this chapter, a student may be expelled immediately by a school district superintendent or a designee of the superintendent in emergency situations: Provided that the superintendent or designee has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to students, school staff, or poses an immediate and continuing threat of substantial disruption of the educational process. An emergency expulsion must end or be converted to another form of corrective action within ten school days from the date of the expulsion. A school district must provide notice and

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due process rights if it converts the emergency expulsion to another form of corrective action.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-295, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-295, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-295, filed 6/22/06, effective 6/22/06; Order 6-77, § 180-40-295, filed 6/2/77, effective 8/1/77.]

WAC 392-400-300 Emergency expulsion—Notice of hearing—Waiver of hearing right. (1) The student and his or her parent(s) or guardian(s) shall be notified of the emergency expulsion of the student and of their opportunity for a hearing either (a) by hand delivering written notice to the student's parent(s) or guardian(s) within twenty-four hours of the expulsion. School districts must document delivery of the notice by obtaining the signature of the parent(s) or guardian(s) acknowledging receipt or the written certification of the person making the delivery; or (b) by certified letter(s) deposited in the United States mail, within twenty-four hours of the expulsion. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and his or her parent(s) or guardian(s) by telephone or in person as soon as reasonably possible. Such written and oral notice shall:

(a) Be provided in the predominant language of a student and/or a parent(s) or guardian(s) who predominantly speak a language other than English, in accordance with Title VI of the Civil Rights Act of 1964;

(b) Specify the alleged reasons that the student's presence poses an immediate and continuing danger to students, school staff, or poses an immediate and continuing threat of substantial disruption of the educational process;

(c) Set forth the date on which the emergency expulsion began and will end;

(d) Set forth the right of the student and/or his or her parent(s) or guardian(s) to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible; and

(e) Set forth the facts that:

(i) A written or oral request for a hearing must be received by the school district employee designated, or by his or her office, on or before the expiration of the third school business day after receipt of the notice of opportunity for a hearing; and

(ii) If such a request is not received within the prescribed period of time, then the right to a hearing may be deemed to have been waived, and the emergency expulsion may be continued, as deemed necessary, for up to ten school days from the date of the student's emergency removal from school without any further opportunity for the student or his or her parent(s) or guardian(s) to contest the matter. A schedule of "school business days" potentially applicable to the exercise of such hearing right should be included with the notice.

(2) The student and/or his or her parent(s) or guardian(s) shall reply to the notice of opportunity for a hearing and request a hearing within three school business days after the date of receipt of the notice. A request for a hearing shall be provided to the school district employee specified in the notice of opportunity for a hearing, or to his or her office. A request for a hearing shall be accepted if in writing or orally.

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(3) If a request for a hearing is not received within the required three school business day period, the school district may deem the student and his or her parent(s) or guardian(s) to have waived the right to a hearing and the emergency expulsion may be imposed, as deemed necessary, for a period of up to ten school days from the date of the emergency removal from school.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-300, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-300, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-300, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.04.132. WSR 86-20-055 (Order 13-86), § 180-40-300, filed 9/29/86; Order 6-77, § 180-40-300, filed 6/2/77, effective 8/1/77.]

WAC 392-400-305 Emergency expulsion—Prehearing and hearing process. (1) If a request for a hearing within the required three school business days is received pursuant to WAC 392-400-300, the school district shall immediately schedule and give notice of a hearing to commence as soon as reasonably possible and in no case later than the second school business day after receipt of the request for hearing.

(2) The student and his or her parent(s) or guardian(s) shall have the right to:

(a) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing;

(b) Be represented by legal counsel;

(c) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(i) That the district made a reasonable effort to produce the witness and is unable to do so; or

(ii) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness;

(d) Present his or her explanation of the alleged misconduct; and

(e) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires.

(3) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing.

(4) The person(s) hearing the case shall not be a witness and final decision regarding the imposition of corrective action shall be determined solely on the basis of the evidence presented at the hearing.

(5) Either a tape-recorded or verbatim record of the hearing shall be made.

(6) Within one school business day after the date upon which the hearing concludes, the person(s) hearing the case shall issue a decision regarding whether the emergency expulsion shall continue. The school district shall provide notice of the decision to the student and the student's parent(s), guardian(s), and legal counsel, if any, by depositing a

certified letter in the United States mail. The decision shall set forth the findings of fact, the conclusions (including a conclusion as to whether the immediate and continuing danger to students, school staff, or poses an immediate and continuing threat of substantial disruption of the educational process, giving rise to the emergency expulsion has terminated), and whether the emergency expulsion shall be converted to another form of corrective action.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-305, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-305, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-305, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 00-07-018, § 180-40-305, filed 3/3/00, effective 4/3/00; Order 6-77, § 180-40-305, filed 6/2/77, effective 8/1/77.]

APPEALS

WAC 392-400-310 Appeals—Long-term suspension and expulsion. Appeals from decisions rendered pursuant to WAC 392-400-270, 392-400-285 and 392-400-305 which impose either a long-term suspension or an expulsion upon a student shall be governed as follows:

(1) Any school district board of directors may delegate its authority to hear and decide long-term suspension and expulsion appeals to a school district disciplinary appeal council established by the board. School district disciplinary appeal councils shall be appointed by the school district board of directors for fixed terms and shall consist of not less than three persons.

(2) If the case was not heard and decided by the school district board of directors or school district disciplinary appeal council, the student and his or her parent(s) or guardian(s) shall have the right to appeal the decision to the board of directors or the disciplinary appeal council. Notice indicating that the student or his or her parent(s) or guardian(s) desire to appeal the decision shall be provided to either the office of the school district superintendent or to the office of the person who rendered the decision within three school business days after the date of receipt of the decision. The notice of appeal shall be accepted in writing or orally.

(3) If an appeal is not taken to the board of directors or disciplinary appeal council within the required three school business day period, the suspension or expulsion decided upon may be imposed as of the calendar day following expiration of the three school business day period.

(4) If a timely appeal is taken to the board of directors or disciplinary appeal council, the suspension or expulsion may be imposed during the appeal period subject to the following conditions and limitations:

(a) A long-term suspension or nonemergency expulsion may be imposed during the appeal period for no more than ten consecutive school days or until the appeal is decided, whichever is the shortest period;

(b) Any days that a student is temporarily suspended or expelled before the appeal is decided shall be applied to the term of the student's suspension or expulsion and shall not limit or extend the term of the student's suspension or expulsion; and

(c) Any student subjected to a temporary suspension who returns to school before the appeal is decided shall be pro-

vided the opportunity upon his or her return to make up assignments and tests missed by reason of the suspension if:

(i) Such assignments or tests have a substantial effect upon the student's semester or trimester grade or grades; or

(ii) Failure to complete such assignments or tests would preclude the student from receiving credit for the course or courses.

(5) An appeal from any decision of a school board or disciplinary appeal council to impose or to affirm the imposition of a long-term suspension or an expulsion shall be to the courts. Whether or not the decision of a school board or disciplinary appeal council shall be postponed pending an appeal to superior court shall be discretionary with the school board or disciplinary appeal council except as ordered otherwise by a court.

[Statutory Authority: RCW 28A.600.015. WSR 14-15-153, § 392-400-310, filed 7/23/14, effective 8/23/14. Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-310, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-310, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 97-08-019, § 180-40-310, filed 3/25/97, effective 4/25/97. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-310, filed 7/22/96, effective 8/22/96; Order 13-77, § 180-40-310, filed 10/18/77; Order 6-77, § 180-40-310, filed 6/2/77, effective 8/1/77.]

WAC 392-400-315 Appeals—Hearing before school board or disciplinary appeal council—Procedures.

(1) If a notice of appeal to the school board of directors or school district disciplinary appeal council is received pursuant to WAC 392-400-310(2) within the required three school business days, the board or council shall schedule and hold an informal conference to review the matter within ten school business days after the date of receipt of such appeal notice. The purpose of the meeting shall be to meet and confer with the parties in order to decide upon the most appropriate means of disposing of the appeal as provided for in this section. At that time the student or the student's parent(s) or guardian(s) or legal counsel shall be given the right to be heard and shall be granted the opportunity to present such witnesses and testimony as the board or council deems reasonable. The board or council shall agree to one of the following procedures prior to adjournment or recess:

(a) Study the hearing record or other material submitted and render its decision within ten school business days after the date of the informal conference, or

(b) Schedule and hold a meeting to hear further arguments based on the record before the board or council and render its decision within fifteen school business days after the date of the informal conference, or

(c) Schedule and hold a meeting within ten school business days after the date of the informal conference for the purpose of hearing the case de novo.

(2) In the event the school board of directors or school district disciplinary appeal council elects to hear the appeal de novo, the following rights and procedures shall govern the proceedings:

(a) The student and his or her parent(s) or guardian(s) shall have the right to:

(i) Inspect in advance of the hearing any documentary and other physical evidence which the school district intends to introduce at the hearing,

(ii) Question and confront witnesses, unless a school district witness does not appear and the nonappearance of the witness is excused by the person(s) hearing the case based upon evidence of good reason for doing so submitted by the school district. The evidence submitted by the school district must at a minimum establish either:

(A) That the district made a reasonable effort to produce the witness and is unable to do so; or,

(B) That it is not advisable for the student to appear due to an expectation and fear on the part of the responsible district official(s) or the student of retaliation against the student if he or she appears as a witness,

(iii) Present his or her explanation of the alleged misconduct, and

(iv) Make such relevant showings by way of witnesses and the introduction of documentary and other physical evidence as he or she desires,

(b) The designee(s) of the school district assigned to present the district's case shall have the right to inspect in advance of the hearing any documentary and other physical evidence that the student and his or her parent(s) or guardian(s) intend to introduce at the hearing, and

(c) Either a tape-recorded or verbatim record of the hearing shall be made.

[Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-315, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-315, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160. WSR 00-07-018, § 180-40-315, filed 3/3/00, effective 4/3/00. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-315, filed 7/22/96, effective 8/22/96. Statutory Authority: 1979 1st ex.s. c 173 and c 201. WSR 79-11-049 (Order 14-79), § 180-40-315, filed 10/16/79; Order 6-77, § 180-40-315, filed 6/2/77, effective 8/1/77.]

WAC 392-400-317 Appeals—Discipline and short-term suspension grievances. Any school district board of directors may delegate its authority to hear and decide discipline and short-term suspension grievance appeals filed pursuant to WAC 392-400-240 and 392-400-253 [392-400-255] to a school district disciplinary appeal council established pursuant to WAC 392-400-310(1).

[Statutory Authority: RCW 28A.305.160. WSR 07-04-048, § 392-400-317, filed 1/31/07, effective 3/3/07. Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-317, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-317, filed 7/22/96, effective 8/22/96.]

WAC 392-400-320 School board or disciplinary appeal council decisions. Any decision by a school board of directors or school district disciplinary appeal council pursuant to this chapter to impose or to affirm, reverse, or modify the imposition of discipline, suspension, or expulsion upon a student shall be made:

(1) Only by those board or council members who have heard or read the evidence.

(2) Only by those board or council members who have not acted as a witness in the matter.

(3) Only at a meeting at which a quorum of the board or council is present and by majority vote.

[Statutory Authority: 2006 c 263. WSR 06-14-009, recodified as § 392-400-320, filed 6/22/06, effective 6/22/06. Statutory Authority: RCW 28A.305.160 and 1996 c 321. WSR 96-15-098, § 180-40-320, filed 7/22/96, effective 8/22/96; Order 6-77, § 180-40-320, filed 6/2/77, effective 8/1/77.]

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CLASSROOM EXCLUSIONS

WAC 392-400-330 Classroom exclusions—Conditions and limitations. (1) **Authority to administer classroom exclusions.**

(a) **Teacher authority.** A teacher may exclude a student from the teacher's classroom or instructional or activity area for behavioral violations that disrupt the educational process while the student is under the teacher's immediate supervision, subject to the requirements in this section and WAC 392-400-335.

(b) **Other school personnel authority.** A school district may authorize other school personnel to exclude a student from a classroom or instructional or activity area for behavioral violations of the district's discipline policy adopted under WAC 392-400-110 or 392-400-225, subject to the requirements in this section and WAC 392-400-335.

(2) **Other forms of discipline.** The teacher or other school personnel must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations, unless the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process. In administering other forms of discipline, the teacher or other school personnel may consider using best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(3) **Limitations on classroom exclusion.**

(a) **Duration of classroom exclusion.** A classroom exclusion may be administered for all or any portion of the balance of the school day in which the student was excluded from the student's classroom or instructional or activity area. When a student is excluded from the student's classroom or instructional or activity area for longer than the balance of the school day, the school district must provide notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.

(b) **Removal from school.** A student may not be removed from school during a classroom exclusion unless the school district provides notice and due process for a suspension, expulsion, or emergency expulsion under this chapter.

(4) **Assignments and tests.** The school district must provide the student an opportunity to make up any assignments and tests missed during the classroom exclusion.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-330, filed 7/30/18, effective 8/31/18.]

WAC 392-400-335 Classroom exclusion—Notice and procedure. Following a classroom exclusion under WAC 392-400-330:

(1) **Notice to principal.** The teacher or other school personnel must report the classroom exclusion, including the behavioral violation that led to the classroom exclusion, to the principal or designee as soon as reasonably possible.

(2) **Notice to parents.** The teacher, principal, or designee must notify the student's parents regarding the classroom exclusion as soon as reasonably possible. The school district must ensure that this notification is in a language the parents understand, which may require language assistance for par-

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ents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(3) **Emergency circumstances.** When a teacher or school personnel administers a classroom exclusion on the grounds that the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process:

(a) The teacher or other school personnel must immediately notify the principal or designee; and

(b) The principal or designee must meet with the student as soon as reasonably possible and administer appropriate discipline.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-335, filed 7/30/18, effective 8/31/18.]

SUSPENSIONS AND EXPULSIONS

WAC 392-400-410 Appeal for extension of an expulsion. When warranted because of risk to the public health and safety, the principal or the principal's designee may petition the district's superintendent for authorization to exceed the academic term limitation on an expulsion. The superintendent may exercise his/her discretion to grant the petition in limited circumstances, on a case-by-case basis, so long as there is evidence that, if the student were to return at or before the length of an academic term, as defined by the school board, he/she would pose a risk to public health or safety.

(1) The petition to exceed the academic term limit shall include, at least, the following:

(a) A detailed description of the student's misconduct, the school rules which were violated, and the public health and/or safety concerns of the district;

(b) A detailed description of the student's academic, attendance, and discipline history, if any;

(c) A description of the lesser forms of corrective actions which were considered and reasons why those were rejected;

(d) A description of all alternative learning experiences, vocational programs, and/or other educational services which may be available to the student;

(e) The proposed extended length of the expulsion;

(f) Identification of special education services or accommodations pursuant to Section 504 of the Rehabilitation Act of 1973, if appropriate; and

(g) A proposed date for the reengagement meeting.

(2) Designated staff shall submit the petition at any time after final imposition of an academic term expulsion and prior to the end of that expulsion.

(3) A copy of the petition shall be delivered in person or by certified mail to the student and his/her parent(s)/guardian(s).

(4) The petition shall be provided in the predominant language of the student and/or parent(s)/guardian(s) who speak a language, other than English, in accordance with Title VI of the Civil Rights Act of 1964.

(5) The student and/or parent(s)/guardian(s) may submit a written or verbal response to the petition within ten school business days of the recorded receipt of the petition.

(6) Within eleven school business days, but no later than twenty school business days of the date of the petition's

recorded delivery to the student/parent(s)/guardian(s), the district superintendent shall issue a written decision indicating whether the petition is granted or denied. The written decision shall also include a description of all rights and procedures for appeal.

(7) If the petition is granted, within ten school business days of the receipt of the decision, the student and/or parent(s)/guardian(s) may appeal the decision to the district's school board in accordance with WAC 392-400-310 and 392-400-315.

Annually, all school districts shall report the number of petitions submitted, approved and denied to the office of the superintendent of public instruction.

[Statutory Authority: RCW 28A.600.015. WSR 16-18-028, § 392-400-410, filed 8/26/16, effective 9/1/16; WSR 14-15-153, § 392-400-410, filed 7/23/14, effective 8/23/14.]

WAC 392-400-430 Suspensions and expulsions—General conditions and limitations. A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

(1) **Parent involvement.** A school district must:

(a) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations; and

(b) Must make every reasonable attempt to involve the student and parents in the resolution of behavioral violations.

(2) **Considerations.** Before administering any suspension or expulsion, a school district must consider the student's individual circumstances and the nature and circumstances of the behavioral violation to determine whether the suspension or expulsion, and the length of the exclusion, is warranted.

(3) **Completing academic requirements.** A school district may not:

(a) Suspend the provision of educational services to a student in response to behavioral violations; or

(b) Administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements.

(4) **Opportunity to receive educational services.** A school district must provide an opportunity for students to receive educational services during a suspension or expulsion under WAC 392-400-610.

(5) **Reporting.** The principal or designee must report all suspensions and expulsions, and the behavioral violation that led to each suspension or expulsion, to the school district superintendent or designee within twenty-four hours after the administration of the suspension or expulsion.

(6) **Reentry.** After suspending or expelling a student, a school district must:

(a) Make reasonable efforts to return the student to the student's regular educational setting as soon as possible.

(b) Allow the student to petition for readmission at any time.

(7) **Absences and tardiness.** A school district may not suspend or expel a student from school for absences or tardiness.

(8) **Access to school district property.** When administering a suspension or expulsion, a school district may deny a student admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the district.

(9) End date.

(a) An expulsion or suspension of a student may not be for an indefinite period of time and must have an end date.

(b) If a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, unless:

(i) The school district superintendent or designee grants a petition to extend a student's expulsion under WAC 392-400-480;

(ii) The student is excluded from the student's regular educational setting in accordance with WAC 392-400-810; or

(iii) The student is otherwise precluded under law from returning to the student's regular educational setting.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-430, filed 7/30/18, effective 7/1/19.]

WAC 392-400-435 Short-term and in-school suspensions—Additional conditions and limitations. (1) **Other forms of discipline.** Before administering a short-term or in-school suspension, a school district must first attempt one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) **Length of exclusion.** A school district may not administer a short-term or in-school suspension beyond the school year in which the behavioral violation occurred.

(3) Grade-level limitations.

(a) A school district may not administer a short-term or in-school suspension for a student in kindergarten through fourth grade for more than ten cumulative school days during any academic term; and

(b) A school district may not administer a short-term or in-school suspension for a student in grades five through twelve:

(i) For more than fifteen cumulative school days during any single semester; or

(ii) For more than ten cumulative school days during any single trimester.

(4) **School personnel.** When administering an in-school suspension, a school district must ensure school personnel:

(a) Are physically in the same location as the student to provide direct supervision during the duration of the in-school suspension; and

(b) Are accessible to offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes as required under WAC 392-400-610.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-435, filed 7/30/18, effective 7/1/19.]

WAC 392-400-440 Long-term suspensions—Additional conditions and limitations. (1) **Other forms of discipline.** Before administering a long-term suspension, a school district must consider other forms of discipline to support the student in meeting behavioral expectations. Administering

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other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) **Limitations on long-term suspensions.** A school district may only administer a long-term suspension:

(a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and

(b) After the school district has determined that, if the student returned to school before completing a long-term suspension:

(i) The student would pose an imminent danger to students or school personnel; or

(ii) The student would pose an imminent threat of material and substantial disruption of the educational process.

(3) Length of exclusion.

(a) A long-term suspension may not exceed the length of an academic term.

(b) A school district may not administer a long-term suspension beyond the school year in which the behavioral violation occurred.

(4) **Grade-level limitations.** Except for a violation of WAC 392-400-820, a school district may not administer a long-term suspension for any student in kindergarten through fourth grade.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-440, filed 7/30/18, effective 7/1/19.]

WAC 392-400-445 Expulsions—Additional conditions and limitations. (1) **Other forms of discipline.** Before administering an expulsion, a school district must consider other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) **Limitations on expulsions.** A school district may only administer an expulsion:

(a) For behavioral violations under RCW 28A.600.015 (6)(a) through (d); and

(b) After the school district has determined that if the student returned to school before completing an expulsion, the student would pose an imminent danger to students or school personnel.

(3) **Length of exclusion.** An expulsion may not exceed the length of an academic term, unless the principal or designee petitions the school district superintendent for extension of an expulsion under WAC 392-400-480, and the petition is granted.

(4) **Grade-level limitations.** Except for violations of WAC 392-400-820, a school district may not administer an expulsion for any student in kindergarten through fourth grade.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-445, filed 7/30/18, effective 7/1/19.]

WAC 392-400-450 Suspensions and expulsions—Initial hearing with student. (1) **Initial hearing.** Before administering any suspension or expulsion, the principal or designee must conduct an informal initial hearing with the

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student for the purpose of hearing the student's perspective. At the initial hearing, the principal or designee must provide the student:

- (a) Notice of the student's violation of the school district's discipline policy adopted under WAC 392-400-110;
- (b) An explanation of the evidence regarding the behavioral violation;
- (c) An explanation of the discipline that may be administered; and
- (d) An opportunity for the student to share the student's perspective and provide explanation regarding the behavioral violation.

(2) Parent participation.

(a) **Short-term and in-school suspensions.** At an initial hearing in which the principal or designee is considering administering a short-term or in-school suspension, the principal or designee must provide the student an opportunity for the student to contact the student's parents.

(b) **Long-term suspensions and expulsions.** At an initial hearing in which the principal or designee is considering administering a long-term suspension or expulsion, the principal or designee must make a reasonable attempt to contact the student's parents to provide an opportunity for the parents to participate in the initial hearing in person or by telephone.

(3) **Administrative decision.** Following the initial hearing, the principal or designee must inform the student of the decision regarding the behavioral violation, including the date on which any suspension or expulsion will begin and end.

(4) **Language assistance.** The school district must ensure that the initial hearing is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-450, filed 7/30/18, effective 7/1/19.]

WAC 392-400-455 Suspensions and expulsions—Notice to student and parents. (1) **Initial notice.** Before administering any suspension or expulsion, a school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the behavioral violation.

(2) **Written notice.** No later than one school business day following the initial hearing with the student in WAC 392-400-450, a school district must provide written notice of the suspension or expulsion to the student and parents in person, by mail, or by email. The written notice must include:

- (a) A description of the student's behavior and how the behavior violated the school district's policy adopted under WAC 392-400-110;
- (b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;
- (c) The other forms of discipline that the school district considered or attempted, and an explanation of the district's decision to administer the suspension or expulsion;
- (d) The opportunity to receive educational services during the suspension or expulsion under WAC 392-400-610;

(e) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-460;

(f) The student's and parents' right to appeal the suspension or expulsion under WAC 392-400-465, including where and to whom the appeal must be requested; and

(g) For a long-term suspension or expulsion, the opportunity for the student and parents to participate in a reengagement meeting under WAC 392-400-710.

(3) **Language assistance.** The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-455, filed 7/30/18, effective 7/1/19.]

WAC 392-400-460 Suspensions and expulsions—Optional conference with principal. (1) **Requesting a conference.** If the student or parents disagree with the school district's decision to suspend or expel the student, the student or parents may request an informal conference with the principal or designee to resolve the disagreement. The request for an informal conference may be made orally or in writing.

(2) **Time limit.** The principal or designee must hold the conference within three school business days after receiving the request, unless otherwise agreed to by the student and parents.

(3) **Conference.** During the informal conference, the principal or designee must provide the student and parents the opportunity to:

- (a) Share the student's perspective and explanation regarding the behavioral violation;
- (b) Confer with the principal or designee and school personnel involved in the incident that led to the suspension or expulsion; and
- (c) Discuss other forms of discipline that may be administered.

(4) **Language assistance.** The school district must ensure the conference is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) **Right to appeal.** An informal conference must not limit a student's or parents' right to appeal the suspension or expulsion under WAC 392-400-465, participate in a reengagement meeting under WAC 392-400-710, or petition for readmission.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-460, filed 7/30/18, effective 7/1/19.]

WAC 392-400-465 Suspensions and expulsions—Appeal. (1) **Requesting an appeal.** A student or the parents may appeal a suspension or expulsion to the school district superintendent or designee orally or in writing.

(2) **Time limit.** A school district may establish a time limit to appeal a suspension or expulsion. Appeal time limits must be no less than five school business days from the date

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the school district provides the written notice under WAC 392-400-455.

(3) Short-term and in-school suspensions.

(a) **Appeal.** The superintendent or designee must provide the student and parents the opportunity to share the student's perspective and explanation regarding the behavioral violation orally or in writing.

(b) **Appeal decision.** The superintendent or designee must deliver a written appeal decision to the student and parents in person, by mail, or by email within two school business days after receiving the appeal. The written decision must include:

- (i) The decision to affirm, reverse, or modify the suspension;
- (ii) The duration and conditions of the suspension, including the dates on which the suspension will begin and end;
- (iii) The educational services the school district will offer to the student during the suspension under WAC 392-400-610; and
- (iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request.

(4) Long-term suspensions and expulsions.

(a) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

- (i) The time, date, and location of the appeal hearing;
- (ii) The name(s) of the official(s) presiding over the appeal;
- (iii) The student's and parents' rights to inspect the student's education records under (e) of this subsection;
- (iv) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under (e) of this subsection;
- (v) The student's and parents' rights under (f) of this subsection; and
- (vi) Whether the school district will offer to hold a reengagement meeting under WAC 392-400-710 before the appeal hearing.

(b) **Reengagement.** Before the appeal hearing, the student, parents, and school district may agree to hold a reengagement meeting and develop a reengagement plan under WAC 392-400-710. The student, parents, and school district may mutually agree to postpone the appeal hearing while participating in the reengagement process.

(c) **Appeal hearing.** The school district must hold an appeal hearing within three school business days from the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student or parents.

(d) **Presiding officials.** The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to suspend or expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(e) Evidence and witnesses.

(i) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(ii) Upon request, the student and parents may review the student's education records. The district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(iii) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

- (A) The district made a reasonable effort to produce the witness; and
- (B) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(f) **Student and parent rights.** During the appeal hearing, the student and parents have the right to:

- (i) Be represented by legal counsel;
- (ii) Question witnesses;
- (iii) Share the student's perspective and provide explanation regarding the behavioral violation; and
- (iv) Introduce relevant documentary, physical, or testimonial evidence.

(g) **Recording of hearing.** The appeal hearing must be recorded by manual, electronic, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(h) **Appeal decision.** The presiding official(s) must base the decision solely on the evidence presented at the hearing. The presiding official(s) must provide a written decision to the student and parents in person, by mail, or by email within three school business days after the appeal hearing. The written decision must include:

- (i) The findings of fact;
- (ii) A determination whether:
 - (A) The student's behavior violated the school district's discipline policy adopted under WAC 392-400-110;
 - (B) The behavioral violation reasonably warrants the suspension or expulsion and the length of the suspension or expulsion; and
 - (C) The suspension or expulsion is affirmed, reversed, or modified;

(iii) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;

(iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request; and

(v) Notice of the opportunity to participate in a reengagement meeting under WAC 392-400-710 and the contact information for the person who will coordinate scheduling of the reengagement meeting.

(5) **Language assistance.** The school district must ensure that the notice, appeal proceedings, and decision are in

a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(6) **Pending appeal.** If the student or parents request an appeal under this section, the school district may temporarily continue to administer the suspension or expulsion during the appeal period subject to the following requirements:

(a) The school district may temporarily continue to administer the suspension or expulsion for no more than ten consecutive school days from the initial hearing under WAC 392-400-450 or until the appeal is decided, whichever is earlier;

(b) Any days that the student is temporarily suspended or expelled before the appeal is decided must be applied to the term of the student's suspension or expulsion and may not extend the term of the student's suspension or expulsion;

(c) If the student who is temporarily suspended or expelled returns to school before the appeal is decided under this section, the school district must provide the student an opportunity to make up assignments and tests missed during the suspension or expulsion upon the student's return.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-465, filed 7/30/18, effective 7/1/19.]

WAC 392-400-470 Suspensions and expulsions—Review and reconsideration. (1) **Requesting review.** The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-465. The student or parents may request the review orally or in writing.

(2) **Time limit.** A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than ten school business days from the date the school district provides the written appeal decision to the student and parents under WAC 392-400-465.

(3) **Review procedure.**

(a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the behavioral violation, any records from the appeal under WAC 392-400-465, relevant state law, and the school district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the behavioral violation, the decision to suspend or expel the student, or the appeal decision under WAC 392-400-465. If the discipline appeal council presided over the appeal under WAC 392-400-465, the decision must be made by the school board.

(4) **Decision.** The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within ten school busi-

ness days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms, reverses, or modifies the suspension or expulsion;

(b) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end; and

(c) For long-term suspensions or expulsions, notice of the opportunity to participate in a reengagement meeting under WAC 392-400-710.

(5) **Language assistance.** The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-470, filed 7/30/18, effective 7/1/19.]

WAC 392-400-475 Discipline appeal council. A school board may designate a discipline appeal council to hear and decide appeals under WAC 392-400-465 or to review and reconsider the district's appeal decisions under WAC 392-400-470. A discipline appeal council must consist of at least three persons appointed by the school board for fixed terms. All members of the discipline appeal council must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-475, filed 7/30/18, effective 7/1/19.]

WAC 392-400-480 Petition to extend expulsion. (1) **Petition.** When risk to public health or safety warrants extending a student's expulsion, the principal or designee may petition the school district superintendent or designee for authorization to exceed the academic term limitation on an expulsion. The petition must inform the superintendent or designee of:

(a) The behavioral violation that resulted in the expulsion and the public health or safety concerns;

(b) The student's academic, attendance, and discipline history;

(c) Any nonacademic supports and behavioral services the student was offered or received during the expulsion;

(d) The student's academic progress during the expulsion and the educational services available to the student during the expulsion;

(e) The proposed extended length of the expulsion; and

(f) The student's reengagement plan.

(2) **Time limit.** The principal or designee may petition to extend an expulsion only after the development of a reengagement plan under WAC 392-400-710 and before the end of the expulsion. For violations of WAC 392-400-820, the principal or designee may petition to extend an expulsion at any time.

(3) **Notice.** The school district must provide written notice of the petition to the student and parents in person, by mail, or by email within one school business day from the

date the superintendent or designee received the petition. The written notice must include:

- (a) A copy of the petition;
- (b) The student's and parents' right to an informal conference with the school district superintendent or designee to be held within five school business days from the date the district provided written notice to the student and parents; and
- (c) The student's and parents' right to respond to the petition orally or in writing to the school district superintendent or designee within five school business days from the date the district provided written notice.

(4) **Written decision.** The school district superintendent or designee may grant the petition only if there is substantial evidence that, if the student were to return to the student's previous school of placement after the length of an academic term, the student would pose a risk to public health or safety. The school district superintendent or designee must deliver a written decision to the principal, the student, and the student's parents in person, by mail, or by email within ten school business days after receiving the petition.

(a) If the petition is granted, the written decision must include:

- (i) The date on which the extended expulsion will end;
- (ii) The reason that, if the student were to return before the initial expulsion end date, the student would pose a risk to public health or safety; and
- (iii) Notice of the student's or parents' right to request review and reconsideration of the appeal decision under subsection (5) of this section, including where and to whom to make the request.

(b) If the petition is not granted, the written decision must identify the date on which the expulsion will end.

(5) **Review and reconsideration.**

(a) **Requesting review.** The students or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the decision to extend the student's expulsion. The student or parents may request the review orally or in writing.

(b) **Time limit.** A school district may establish a time limit for parents and students to request a review under this subsection. The time limit must be no less than ten school business days from the date the school district superintendent or designee provides the written decision under subsection (4) of this section.

(c) **Review procedure.**

(i) The school board or discipline appeal council may request to meet with the student or parents or the principal to hear further arguments and gather additional information.

(ii) The decision of the school board or discipline appeal council may be made only by board or council members who were not involved in the behavioral violation, the decision to expel the student, or the appeal decision under WAC 392-400-465.

(d) **Decision.** The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within ten school business days after receiving the request for review and reconsideration. The written decision must identify:

- (i) Whether the school board or discipline appeal council affirms, reverses, or modifies the decision to extend the student's expulsion; and

(ii) The date on which the extended expulsion will end.

(6) **Duration.** Any extension of an expulsion may not exceed the length of an academic term.

(7) **Language assistance.** The school district must ensure that any petition proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(8) **Annual reporting.** The school district must annually report the number of petitions approved and denied to the office of superintendent of public instruction.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-480, filed 7/30/18, effective 7/1/19.]

EMERGENCY EXPULSIONS

WAC 392-400-510 Emergency expulsions—Conditions and limitations. A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

(1) **Sufficient cause.** The school district must have sufficient cause to believe that the student's presence poses:

- (a) An immediate and continuing danger to other students or school personnel; or
- (b) An immediate and continuing threat of material and substantial disruption of the educational process.

(2) **Determination of immediate and continuing threat of disruption.** For purposes of this section, an immediate and continuing threat of material and substantial disruption of the educational process means:

- (a) The student's behavior results in an extreme disruption of the educational process that creates a substantial barrier to learning for other students across the school day; and
- (b) School personnel have exhausted reasonable attempts at administering other forms of discipline to support the student in meeting behavioral expectations.

(3) **Time limit.** An emergency expulsion may not exceed ten consecutive school days. An emergency expulsion must end or be converted to another form of discipline within ten school days from the start of the emergency expulsion.

(4) **Conversion.** If a school district converts an emergency expulsion to a suspension or expulsion, the district must:

- (a) Apply any days that the student was emergency expelled before the conversion to the total length of the suspension or expulsion; and
- (b) Provide the student and parents notice and due process under WAC 392-400-455 through 392-400-480.

(5) **Reporting.** All emergency expulsions, including the reason the student's presence poses an immediate and continuing danger to other students or school personnel, must be reported to the district superintendent or designee within twenty-four hours after the start of the emergency expulsion.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-510, filed 7/30/18, effective 7/1/19.]

WAC 392-400-515 Emergency expulsions—Notice to student and parents. (1) **Initial notice.** After an emergency expulsion, the school district must attempt to notify the student's parents, as soon as reasonably possible, regarding the reason the district believes the student's presence poses an immediate and continuing danger to other students or school personnel, or an immediate and continuing threat of material and substantial disruption of the educational process.

(2) **Written notice.** Within twenty-four hours after an emergency expulsion, a school district must provide written notice of the emergency expulsion to the student and parents in person, by mail, or by email. The written notice must include:

(a) The reason the student's presence poses an immediate and continuing danger to students or school personnel, or poses an immediate and continuing threat of material and substantial disruption of the educational process;

(b) The duration and conditions of the emergency expulsion, including the dates on which the emergency expulsion will begin and end;

(c) The opportunity to receive educational services during the emergency expulsion under WAC 392-400-610;

(d) The student's and parents' right to an informal conference with the principal or designee under WAC 392-400-520; and

(e) The student's and parents' right to appeal the emergency expulsion under WAC 392-400-525, including where and to whom the appeal must be requested.

(3) **Language assistance.** The school district must ensure the initial and written notices required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-515, filed 7/30/18, effective 7/1/19.]

WAC 392-400-520 Emergency expulsions—Optional conference with principal. (1) **Requesting a conference.** If a student or the parents disagree with the school district's decision to administer an emergency expulsion, the student or parents may request an informal conference with the principal or designee to resolve the disagreement. The request for an informal conference may be made orally or in writing.

(2) **Time limit.** The principal or designee must hold the conference within three school business days after receiving the request, unless otherwise agreed to by the student and parents.

(3) **Conference.** During the informal conference, the principal or designee must provide students and parents the opportunity to share the student's perspective and explanation regarding the events that led to the emergency expulsion.

(4) **Language assistance.** The school district must ensure the conference is held in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) **Right to appeal.** An informal conference must not limit a student's or parents' right to appeal the emergency expulsion under WAC 392-400-525.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-520, filed 7/30/18, effective 7/1/19.]

WAC 392-400-525 Emergency expulsions—Appeal.

(1) **Requesting an appeal.** A student or the parents may appeal an emergency expulsion to the school district superintendent or designee orally or in writing.

(2) **Time limit.** A school district may establish a time limit to appeal an emergency expulsion. Appeal time limits must be no less than three school business days from the date the school district provides the written notice of the emergency expulsion.

(3) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

(a) The time, date, and location of the appeal hearing;

(b) The name(s) of the official(s) presiding over the appeal;

(c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;

(d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and

(e) The student's and parents' rights under subsection (7) of this section.

(4) **Appeal hearing.** The school district must hold an appeal hearing as soon as reasonably possible, but no later than two school business days after the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student and parents.

(5) **Presiding official(s).** The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to emergency expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(6) **Evidence and witnesses.**

(a) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(b) Upon request, the student and parents may review the student's education records. The school district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(c) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

(i) The district made a reasonable effort to produce the witness; and

(ii) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(7) **Student and parent rights.** The student and parents have the right to:

(a) Be represented by legal counsel;

(b) Question witnesses;

(c) Share the student's perspective and provide explanation regarding the events that led to the emergency expulsion; and

(d) Introduce relevant documentary, physical, or testimonial evidence.

(8) **Recording of hearing.** The appeal hearing must be recorded by manual, electronic, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(9) **Appeal decision.** The school district must provide a written decision to the student and parents in person, by mail, or by email within one school business day after the appeal hearing. The written decision must include:

(a) The findings of fact;

(b) A determination whether the student's presence continues to pose:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(c) Whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-455 through 392-400-480; and

(d) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-530, including where and to whom to make the request.

(10) **Language assistance.** The school district must ensure that any appeal proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-525, filed 7/30/18, effective 7/1/19.]

WAC 392-400-530 Emergency expulsions—Review and reconsideration. (1) **Requesting review.** The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-525. The student or parents may request the review orally or in writing.

(2) **Time limit.** A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than five school business days from the date the school district provided the written appeal decision to the student and parents under WAC 392-400-525.

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(3) Review procedure.

(a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the events that led to the emergency expulsion, any records from the appeal under WAC 392-400-525, relevant state law, and the district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the events that led to the emergency expulsion, the decision to emergency expel the student, or the appeal decision under WAC 392-400-525. If the discipline appeal council presided over the appeal under WAC 392-400-525, the decision must be made by the school board.

(4) **Decision.** The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within five school business days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms or reverses the school district's decision that the student's presence posed:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(b) If the emergency expulsion has not yet ended or been converted, whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC 392-400-455 through 392-400-480.

(5) **Language assistance.** The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-530, filed 7/30/18, effective 7/1/19.]

EDUCATIONAL SERVICES

WAC 392-400-610 Educational services during suspension, expulsion, or emergency expulsion. (1) **Educational services.**

(a) A school district may not suspend the provision of educational services to a student in response to behavioral violations.

(b) During the suspension, expulsion, or emergency expulsion of a student, a school district must provide the student the opportunity to receive educational services. The educational services must enable the student to:

(i) Continue to participate in the general education curriculum;

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(ii) Meet the educational standards established within the district; and

(iii) Complete subject, grade-level, and graduation requirements.

(c) When providing a student the opportunity to receive educational services under this section, the school district must consider:

(i) Meaningful input from the student, parents, and the student's teachers;

(ii) Whether the student's regular educational services include English language development services, special education, accommodations and related services under Section 504 of the Rehabilitation Act of 1973, or supplemental services designed to support the student's academic achievement; and

(iii) Access to any necessary technology, transportation, or resources the student needs to participate fully in the educational services.

(d) A school district may provide educational services to the student in an alternative setting or modify the suspension or expulsion on a case-by-case basis. An alternative setting should be comparable, equitable, and appropriate to the regular educational services a student would have received without the exclusionary discipline. Example alternative settings include alternative high schools, one-on-one tutoring, and online learning.

(2) **Notice.** As soon as reasonably possible after administering a suspension or expulsion, a school district must provide written notice to the student and parents about the educational services the district will provide. The school district must provide the written notice in person, by mail, or by email. The notice must include:

(a) A description of the educational services that will be provided; and

(b) The name and contact information for the school personnel who can offer support to keep the student current with assignments and course work as required under this section.

(3) **Exclusions for up to five days.** For students subject to suspension or emergency expulsion for up to five consecutive school days, a school district must provide at least the following:

(a) Course work, including any assigned homework, from all of the student's regular subjects or classes;

(b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes; and

(c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency expulsion.

(4) **Exclusions for six to ten days.** For students subject to suspension or emergency expulsion for six to ten consecutive school days, a school district must provide at least the following:

(a) Course work, including any assigned homework, from all of the student's regular subjects or classes;

(b) Access to school personnel who can offer support to keep the student current with assignments and course work for all of the student's regular subjects or classes. School personnel must make a reasonable attempt to contact the student or parents within three school business days following the start of the suspension or emergency expulsion and periodically thereafter until the suspension or emergency expulsion ends to:

(i) Coordinate the delivery and grading of course work between the student and the student's teacher(s) at a frequency that would allow the student to keep current with assignments and course work for all of the student's regular subjects or classes; and

(ii) Communicate with the student, parents, and the student's teacher(s) about the student's academic progress.

(c) An opportunity for the student to make up any assignments and tests missed during the period of suspension or emergency expulsion.

(5) **Long-term suspensions and expulsions.** For students subject to expulsion or suspension for more than ten consecutive school days, a school district must provide educational services in accordance with WAC 392-121-107.

(6) **Language assistance.** The school district must ensure that notices and communications required under this section are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-610, filed 7/30/18, effective 8/31/18.]

REENGAGEMENT

WAC 392-400-710 Student reengagement after long-term suspension or expulsion. (1) **Reengagement meeting.** When a school district administers a long-term suspension or expulsion, the district must convene a reengagement meeting with the student and parents to discuss a plan to reengage the student. Before convening a reengagement meeting, a school district must communicate with the student and parents to schedule the meeting time and location. The reengagement meeting must occur:

(a) Within twenty calendar days of the start of the student's long-term suspension or expulsion, but no later than five calendar days before the student returns to school; or

(b) As soon as reasonably possible, if the student or parents request a prompt reengagement meeting.

(2) **Reengagement plan.** The school district must collaborate with the student and parents to develop a culturally sensitive and culturally responsive reengagement plan tailored to the student's individual circumstances to support the student in successfully returning to school. In developing a reengagement plan, the school district must consider:

(a) The nature and circumstances of the incident that led to the student's suspension or expulsion;

(b) As appropriate, students' cultural histories and contexts, family cultural norms and values, community resources, and community and parent outreach;

(c) Shortening the length of time that the student is suspended or expelled;

(d) Providing academic and nonacademic supports that aid in the student's academic success and keep the student engaged and on track to graduate; and

(e) Supporting the student, parents, or school personnel in taking action to remedy the circumstances that resulted in

the suspension or expulsion and preventing similar circumstances from recurring.

(3) **Documentation.** The school district must document the reengagement plan and provide a copy of the plan to the student and parents.

(4) **Language assistance.** The school district must ensure that the reengagement meeting and plan are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(5) **Student and parent rights.** Reengagement meetings do not replace an appeal hearing under WAC 392-400-465 or a petition for readmission.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-710, filed 7/30/18, effective 8/31/18.]

ADDITIONAL DUE PROCESS PROTECTIONS

WAC 392-400-805 Fundamental rights. When administering discipline under this chapter, the school district must not:

(1) Unlawfully discriminate against a student on the basis of sex, race, creed, religion, color, national origin, age, veteran or military status, sexual orientation, gender expression or identity, disability, or the use of a trained dog guide or service animal;

(2) Deprive a student of the student's constitutional right to freedom of speech and press, the constitutional right to peaceably assemble and to petition the government and its representatives for a redress of grievances, the constitutional right to the free exercise of religion and to have the student's school free from sectarian control or influence, subject to reasonable limitations upon the time, place, and manner of exercising the right;

(3) Deprive a student of the student's constitutional right to be secure in the student's person, papers, and effects against unreasonable searches and seizures;

(4) Unlawfully interfere in a student's pursuit of an education while in the custody of the school district; or

(5) Deprive a student of the student's right to an equal educational opportunity, in whole or in part, by a school district without due process of law.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-805, filed 7/30/18, effective 8/31/18.]

WAC 392-400-810 Exceptions for the purpose of protecting victims. In accordance with RCW 28A.600.460, a school district may preclude a student from returning to the student's regular educational setting following the end date of a suspension or expulsion for the purpose of protecting victims of certain offenses, as follows:

(1) **Teacher victim.** A student committing an offense under RCW 28A.600.460(2), when the activity is directed toward the teacher, shall not be assigned to that teacher's classroom for the duration of the student's attendance at that school or any other school where the teacher is assigned;

(2) **Student victim.** A student who commits an offense under RCW 28A.600.460(3), when directed toward another

student, may be removed from the classroom of the victim for the duration of the student's attendance at that school or any other school where the victim is enrolled.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-810, filed 7/30/18, effective 8/31/18.]

WAC 392-400-815 Behavior agreements. (1) **General.** A school district may enter into behavior agreements with students and parents in response to behavioral violations, including agreements to reduce the length of a suspension conditioned on the participation in treatment services, agreements in lieu of suspension or expulsion, or agreements holding a suspension or expulsion in abeyance.

(2) **Policies and procedures.** A school district entering into behavior agreements under this section must adopt written policies and procedures authorizing the agreements.

(3) **Reengagement meetings and educational services.** A school district must ensure that a behavior agreement does not waive a student's opportunity to participate in a reengagement meeting under WAC 392-400-710, or receive educational services as provided under WAC 392-400-610.

(4) **Duration.** The duration of behavior agreements must not exceed the length of an academic term.

(5) **Subsequent behavioral violations.** Nothing in this section precludes a school district from administering discipline for behavioral violations that occur after the district enters into an agreement with the student and parents.

(6) **Language assistance.** The school district must ensure any behavior agreement under this section is provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-815, filed 7/30/18, effective 8/31/18.]

WAC 392-400-820 Firearm exceptions. As provided under RCW 28A.600.420:

(1) A school district must expel a student for no less than one year if the district has determined that the student has carried or possessed a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools. The school district superintendent may modify the expulsion on a case-by-case basis.

(2) A school district may suspend or expel a student for up to one year if the student acts with malice, as defined under RCW 9A.04.110, and displays an instrument that appears to be a firearm on school premises, school-provided transportation, or areas of facilities while being used exclusively by public schools.

(3) This section does not apply to:

(a) Any student while engaged in military education authorized by the school district in which rifles are used;

(b) Any student while involved in a convention, showing, demonstration, lecture, or firearms safety course authorized by the school district in which the rifles of collectors or instructors are handled or displayed; or

(c) Any student while participating in a rifle competition authorized by the school district.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-820, filed 7/30/18, effective 8/31/18.]

WAC 392-400-825 Corporal punishment, restraint, and isolation. (1) Corporal punishment. A school district may not administer corporal punishment, including any act that willfully inflicts or willfully causes the infliction of physical pain on a student. Corporal punishment does not include:

(a) The use of reasonable physical force by a school administrator, teacher, school personnel or volunteer as necessary to maintain order or to prevent a student from harming themselves, other students, school personnel, or property;

(b) Physical pain or discomfort resulting from or caused by training for or participation in athletic competition or recreational activity voluntarily engaged in by a student; or

(c) Physical exertion shared by all students in a teacher-directed class activity, which may include, but is not limited to, physical education exercises, field trips or vocational education projects.

(2) Restraint and isolation. A school district may not use isolation, restraint, or a restraint device on any student, except as provided for in RCW 28A.155.210, 28A.600.485, WAC 392-172A-02105, and 392-172A-02110.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-825, filed 7/30/18, effective 8/31/18.]

WAC 392-400-830 School meals. A school district may not administer any discipline in a manner that would result in the denial or delay of a nutritionally adequate meal to the student.

[Statutory Authority: RCW 28A.600.015, 28A.600.020 and 28A.600.010 through 28A.600.022, 28A.320.211. WSR 18-16-081, § 392-400-830, filed 7/30/18, effective 8/31/18.]