

CHELTENHAM SCHOOL DISTRICT
ADMINISTRATIVE REGULATION

233 SUSPENSION AND EXPULSION

Exclusion From School - Suspension

The principal or designee in charge of a public school may suspend any student for disobedience or misconduct for a period of one (1) to ten (10) consecutive school days and shall report the suspension to the Superintendent and the parent/guardian immediately in writing. The document attached to this Administrative Regulation as **Attachment 1** may be used for this purpose.

No student may be suspended without notice of the reasons for which s/he is suspended and an opportunity to respond on his/her own behalf before the school official who holds the authority to reinstate him/her. Prior notice is not required where it is clear that the health, safety or welfare of the school community is threatened.

Students serving suspensions must make up missed exams and work, and shall be permitted to complete assignments pursuant to established guidelines.

Suspensions – Four (4) to Ten (10) School Days

When a suspension exceeds three (3) school days, or, in the event that after the student meets with the principal or designee to review the reasons for a shorter suspension and have an opportunity to respond, the principal or designee determines that further suspension exceeding three (3) total school days and/or referral to the Office of the Superintendent for possible expulsion proceedings is warranted, the student and parent or guardian will be given the opportunity for an informal hearing with the designated school official, which may be waived by the student or the parent/guardian. This informal hearing shall be held within the first five (5) days of the suspension. The due process procedures outlined in the appropriate section of the enclosed **Attachment 2** will apply to informal hearings.

After the informal hearing, if the principal or designee extends the student's suspension for a period not to exceed ten (10) total school days, or if the principal or designee decides to refer the matter to the Superintendent for possible expulsion proceedings, the student's parent/guardian shall be so advised and the referral shall take place as soon as possible following the informal hearing. The document attached to this Administrative Regulation as **Attachment 3** may be used for the purpose of advising the parent/guardian of the outcome of the informal hearing and the principal or designee's ultimate recommendation.

Expulsion

The Board may either expel for a period exceeding ten (10) consecutive school days or may permanently expel from the District rolls any student whose misconduct and disobedience is such as to warrant this sanction. (Cross Reference: Board Policy / Administrative Regulation 218 – Student Discipline)

Students who are suspended but facing an expulsion hearing must be placed in their normal classes if the formal hearing is not held within the ten school day suspension, subject to the below qualification.

If it is not possible to hold the formal hearing within the first ten (10) school days, the District may exclude such a student from class for up to five (5) additional – fifteen (15) total – school days if, after an informal hearing, it is determined that the student’s presence in his/her normal class would constitute a threat to the health, safety or welfare of others. Any further exclusion prior to a formal hearing may be only by mutual agreement, unless the delay is due to:

1. The need for laboratory reports from law enforcement agencies.
2. Pending evaluations or other court or administrative proceedings due to a student’s invoking his/her rights under the Individuals with Disabilities Education Act (IDEA).
3. The condition or best interests of the victim in cases of juvenile or criminal court involving sexual assault or serious bodily injury.

Such students shall be given alternative education, which may include home study.

No student may be expelled without an opportunity for a formal hearing before the Board or the designated committee or hearing officer thereof, which the student may waive, and upon action taken by the Board after the hearing, if a hearing was held. The due process procedures outlined in the appropriate section of the enclosed **Attachment 2** will apply to formal hearings, in addition to those noted below in the section of this Administrative Regulation titled “Hearings”.

Note: Students with disabilities and students determined to be handicapped under Chapter 15 whose behavior may require disciplinary action must be disciplined consistent with the procedures and limitations set forth in **Attachment 4** (“Discipline of Students with Disabilities.”)

Attendance Requirements

A student under seventeen (17) years of age who is expelled has forfeited his/her right to an education in the Cheltenham School District schools for the duration of his/her term of expulsion, but s/he has not been excused from compliance with the compulsory attendance statute. The responsibility for meeting this legal requirement rests with the student's parents.

The student’s parents/guardians has the initial responsibility of providing the required education and shall, within thirty (30) days of action by the Board, submit written evidence to the Superintendent or designee that the required education is being provided or that they are unable to do so. If the parent/guardian is unable to provide for the required education, the District shall, within ten (10) days of receipt of parent’s/ guardian’s notification, make provisions for the student’s education. The Superintendent or designee shall determine the amount and type of alternative instruction necessary and appropriate in each case involving such an expelled student.

If the approved educational program is not complied with, the District may take action to ensure that the student will receive a proper education.

Hearings

Students suspended out of school for a period of time longer than three (3) days shall be afforded an informal hearing with a designated school official, held within five (5) school days.

With respect to formal hearings, prior notification of the charges shall be sent to the student's parents or guardians by certified mail. At least 3 days' notice of the time and place of the hearing shall be given. A copy of Policy and Administrative Regulation 233 (Suspensions and Expulsions), as well as a copy of the attached **Attachment 2**, which details the due process procedures that will apply to the formal expulsion hearing, including but not limited to the student's right to be represented by legal counsel at the hearing, shall be included. A student may request the rescheduling of the hearing when s/he demonstrates good cause for such extension.

Notice of a right to appeal the results of the hearing shall be provided to the student with the expulsion decision.

Legal Citations:

22 Pa Code Sec. 12.6

22 Pa Code Sec. 12.7

22 Pa Code Sec. 12.8

Public School Code of 1949 (Section 1318)

Board Policy & Administrative Regulation 218 (Student Discipline)

Board Policy and Administrative Regulation 260 (Make-Up Work After Absence)

10/7/2017

SUSPENSION NOTICE

TO: _____ **Via First Class, Hand Delivery or E-Mail**

DATE: _____

SUBJECT: Suspension Notice

STUDENT NAME: _____ (“Student”)

GRADE: _____

NUMBER OF DAYS SUSPENDED: A total of _____ days of suspension have been assigned to the Student.

DATE(S) OF SUSPENSION: _____

LOCATION OF SUSPENSION [ISS, OSS]: _____

OFFENSE: _____

EXPLANATION AND/OR COMMENTS:

OPPORTUNITY FOR INFORMAL HEARING [IF LONGER SUSPENSION THAN 3 SCHOOL DAYS]: You are being given the opportunity for an informal hearing which is schedule to take place at _____ at _____ a.m. / p.m. The purpose of the informal hearing will enable you and your child to meet with me to explain the circumstances surrounding the event for which your child is being suspended. **See the attached Procedural Safeguards Notice** for a list of important due process procedures applicable at an informal hearing.

Please be aware that due to the serious nature of the current offense, a decision may be made to extend this suspension for up to ten (10) total school days. A referral may also be made to the Superintendent of Schools for possible expulsion proceedings.

ADDITIONAL CONDITIONS:

While suspended, students may not attend school functions, participate in school-sponsored activities, or be on school premises without the express permission of the Superintendent of Schools or the building principal. If a student is found on school property during the time of a suspension, he/she will be considered trespassing and may be referred to law enforcement for possible criminal prosecution. A student may be required to attend a re-entry conference prior to return to school, at the discretion of the building principal.

Signature: _____
Principal (or Designee)

Enc. Procedural Safeguards Notice

**CC: Superintendent
Assistant Superintendent
Principal
Attendance Clerk
School Counselor
Child Accounting**

PROCEDURAL SAFEGUARDS NOTICE – EXPULSION

Informal Hearing

The following due process requirements will be observed at the informal hearing:

1. You may attend the informal hearing with your child.
2. You or your child will be given the right to cross examine any witnesses presented by the principal.
3. You or your child will be extended the right to speak and produce witnesses.
4. As this is an informal hearing, tape recording of the meeting is not permitted.
5. No retained attorneys will be permitted to participate in the hearing.

Formal Expulsion Hearing

The following due process requirements apply to the formal expulsion hearing:

1. The hearing shall be held in private unless you request a public hearing.
2. A stenographic record will be made of the hearing. You may request a copy of the transcript at his or your expense.
3. Your child/children have a right to be represented by counsel.
4. You will have the right to cross-examine any witness presented by the Administration.
5. Your child/children have the right to testify and present witnesses on their own behalf.
6. You have a right to review any written statements made by the above witnesses.

Where the student disagrees with the results of the hearing, recourse is available in the appropriate court of the Commonwealth. If it is alleged that a constitutional issue is involved, the student may file a claim for relief in the appropriate federal district court.

Students who are less than 17 years of age are still subject to the compulsory school attendance law even though expelled, and they must be provided an education by the student's district of residence. The initial responsibility for providing the required education rests with the student's parents or guardian, through placement in another school, through tutorial or correspondence study, or through another educational program approved by the district superintendent. If the parents or guardians are unable to provide for the required education, they must, within thirty (30) days, submit to the school district written evidence so stating. The District then has the responsibility to make some provision for the student's education. If the approved educational program is not complied with, the school district may take action in accordance with Chapter 63 of the Juvenile Act (42 Pa.C.S. 6301-6308), to ensure that the child will receive a proper education.

NOTICE OF EXTENSION OF SUSPENSION

TO: _____ **Via First Class, Hand Delivery or E-Mail**

DATE: _____

SUBJECT: Notice of Extension of Suspension

STUDENT NAME: _____ (“Student”)

GRADE: _____

INITIAL SUSPENSION: _____ days. Served on _____

DATE OF INFORMAL HEARING: _____

OUTCOME OF INFORMAL HEARING: As a result of the outcome of the informal hearing, Student has been assigned _____ additional days of suspension from school.

DATE(S) OF ADDITIONAL SUSPENSION: _____

LOCATION OF SUSPENSION [ISS, OSS]: _____

OFFENSE: _____

EXPLANATION AND/OR COMMENTS:

POSSIBLE REFERRAL TO SUPERINTENDED [INCLUDE IF APPLICABLE]: Due to the serious nature of the current offense, this matter has been referred to the Superintendent of Schools for possible expulsion proceedings. Additional correspondence will be forthcoming from the Superintendent regarding a decision as to whether the District will pursue expulsion.

ADDITIONAL CONDITIONS:

While suspended, students may not attend school functions, participate in school-sponsored activities, or be on school premises without the express permission of the Superintendent of Schools or the building principal. If a student is found on school property during the time of a suspension, he/she will be considered trespassing and may be referred to law enforcement for possible criminal prosecution. A student may be required to attend a re-entry conference prior to return to school, at the discretion of the building principal.

Signature: _____

Principal (or Designee)

Enc. Procedural Safeguards Notice

**CC: Superintendent
Assistant Superintendent
Principal
Attendance Clerk
School Counselor
Child Accounting**

SUSPENSIONS OF STUDENTS WITH DISABILITIES

General Rules

Typically, students with disabilities and students determined to be handicapped under Chapter 15 may not be suspended beyond ten (10) consecutive school days and fifteen (15) cumulative school days ("the 10/15 day limits") in accordance with State Board of Education regulations, 22 Pa. Code §14.143. The exception to this general rule is where the IEP team determines that the student's conduct was not a manifestation of the student's disability.

When discipline is to be imposed upon a student with disabilities, school personnel have the authority to (1) remove the child from his or her current placement to an appropriate interim alternative educational setting or suspension for a period of not more than the 10/15 day limits to the extent such discipline would be applied to students without disabilities; (2) assign the student to an alternative educational setting for the same period as such discipline would be imposed upon children without disabilities if there has been a determination that the conduct at issue was not a manifestation of the child's disability; or (3) assign the student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the conduct at issue was a manifestation of the child's disability if the special circumstances for emergency placement described below apply.

When a student with a disability has committed an act that would result in a suspension from school, all regular disciplinary procedures must be followed. If the proposed suspension is longer than 10 school days, or longer than 15 school days when added to prior suspensions in the school year, or involves the exclusion of a student with Intellectual Disability, it is considered a change of educational placement as defined in 22 Pa. Code 14.143. Any recurring, part-day removals may constitute a change of placement just as recurring full day removals of the student from the class constitute a change in placement.

If proposed discipline would result in a change in placement, then in addition to other applicable procedures, within ten (10) school days of any decision to change the placement of a student with a disability, the relevant members of the IEP team must conduct a manifestation determination as set forth below.

Emergency Exclusions for Students with Intellectual Disability

The protection afforded students with Intellectual Disabilities in the Commonwealth concerning suspension is greater than the protection afforded other students with disabilities. For students with an Intellectual Disability, any suspension is a change in placement; however, the regulations provide a mechanism for emergency exclusions of such students where necessary.

If a discipline problem with a student with Intellectual Disability is so immediate or severe as to warrant immediate action, the District, via the Director of Special Education, with the approval of the Secretary of Education or a designee, may implement an interim change in educational placement, including exclusion from school, as long as notice is provided to the parents and a due process hearing is scheduled as soon as possible. The Secretary of Education approval process is available only for an exclusion of a student with an Intellectual Disability for 10 days or less. A District proposing to exclude a student with an Intellectual Disability must first notify

the student's parent/guardian in writing requesting approval. If the approval is not given, the parents and/or the District have the right to a due process hearing to determine whether a change in placement is appropriate.

In the event of a weapons incident, the appropriate procedures are followed including police notification, documentation for state reporting and recommendation to the Superintendent by administration for discretionary action if warranted.

IEP/Multidisciplinary Team Consideration

Within ten (10) school days after the decision to change the placement, the relevant members of the IEP team, as determined by the parent(s) and the Administration, must consider whether the student's behavior is attributable to the student's disability. In making this determination (hereafter called the manifestation determination), the IEP team must review all relevant information in the student's file, including the IEP, any teacher observations and any relevant information provided by the parents to determine: (a) whether the conduct in question was caused by or had a direct and substantial relationship to the student's disability and (b) whether the conduct in question was the direct result of the District's failure to implement the student's IEP. If the team determines that the answer to either of these questions is "yes", then the conduct shall be deemed a manifestation of the student's disability.

Conduct Deemed a Manifestation of Disability

If the conduct is deemed a manifestation of the student's disability, the IEP team must (a) conduct a functional behavioral assessment of the student unless such an assessment was previously conducted and develop and implement a behavior intervention plan, unless such a plan has already been developed; or (b) if a behavior intervention plan was previously developed, review the plan and modify it as necessary to address the behavior.

The behavioral intervention plan will provide the vehicle in the determination of what constitutes a change in educational placement for each student's program. If the IEP team has included certain school responses to student behavior in the behavior intervention plan, the application of the agreed upon procedures will not constitute a change in educational placement.

Additionally, if the conduct is deemed a manifestation of the student's disability, then the student must be returned to placement from which the student was removed unless (a) the parent(s) and the District agree to a change in placement as part of a behavioral intervention plan or (b) the special circumstances for emergency placements set forth below apply. If the conduct in question involved any of the special circumstances noted, the District may assign the student to an alternative educational setting for not more than forty-five (45) school days, regardless of whether the conduct was a manifestation of the student's disability.

If the conduct is deemed a manifestation, but the District believes that maintaining the current placement is substantially likely to result in injury to the child or others, then the District may request an expedited due process hearing which must be scheduled within 20 school days of the request. The student must remain in the current placement pending the hearing officer's decision, unless the District and the parent(s) agree to an alternative placement.

Conduct Not a Manifestation of Disability

If the conduct is not deemed a manifestation of the student's disability, the District may proceed with the disciplinary measures applicable to students without disabilities in the same manner and for the same duration as they would apply to students without disabilities. The District is still required to provide a free appropriate public education to the student, but it may provide the education in an alternative setting. If a hearing before the Board is necessary, the Board must receive the complete special education and disciplinary record of the child.

If the parents disagree with determination that the behavior was not a manifestation of the student's disability, then the parents have the right to an expedited hearing to challenge the determination. During the appeal, the student must remain in the interim alternative educational setting until the disposition of the appeal or until the expiration of the period of exclusion, whichever occurs first, unless the District and the parent agree otherwise.

If the conduct is not deemed a manifestation, then the District must, as appropriate, provide a functional behavioral assessment, behavior intervention services and modifications that are designed to address the behavior violation so that it does not recur.

Special Circumstances For Emergency Placements

The Administration can remove a student with disabilities to an interim alternative educational setting for a period of forty-five (45) days regardless of whether the conduct in question was a manifestation of the student's disability under the following three circumstances:

Weapons

A student with a disability who carries or possesses a dangerous weapon to or at school, on school premises or to or at a school function can be placed in an interim alternative educational setting for a maximum of 45 school days (the IEP team determines the setting and the student returns to regular education on the 46th day unless a mutually agreed upon new placement has been identified). Procedures described above related to the manifestation determination and development of a functional behavioral assessment and implementation or modification of a behavioral intervention plan still apply.

Controlled Substances

A student with a disability who knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises or at a school function can be placed in an interim alternative educational setting for a maximum of 45 school days (the IEP team determines the setting and the student returns to regular education on the 46th day unless a mutually agreed upon new placement has been identified). The term "illegal drug" means a controlled substance but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional. This does not include a legally-prescribed drug. A "controlled substance" is a substance as defined in the Controlled Substances Act (21 U.S.C. § 812(c).) Procedures described above related to the manifestation determination and development of a functional behavioral assessment and implementation or modification of a behavioral intervention plan still apply.

Serious Bodily Injury

A student with a disability who has inflicted serious bodily injury upon another person while at school, on school premises or at a school function can be placed in an interim alternative educational setting for a maximum of 45 school days (the IEP team determines the setting and the student returns to regular education on the 46th day unless a mutually agreed upon new placement has been identified). Serious bodily injury is defined as “bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.” Procedures described above related to the manifestation determination and development of a functional behavioral assessment and implementation or modification of a behavioral intervention plan still apply.

For any of these special circumstances for emergency placements, if a student’s conduct is deemed not to be a manifestation of the student’s disability, then the District can impose discipline beyond the 45 school days to the extent and for the duration that it would impose such discipline on students without disabilities. If the District proposes such a placement beyond the 45 school day alternative placement, it must offer a Board hearing as it would for students without disabilities.

Procedures for Suspensions of Students with Disabilities

For suspensions of 1 to 3 school days and 4 to 10 school days for all students with disabilities, except those who have an Intellectual Disability, follow procedures used for regular education students set forth above. In addition, the principal should notify the Director of Special Education of the suspension and the readmission date.

For special education students being suspended for periods of time longer than 10 consecutive school days or more than 15 cumulative school days, the following procedures apply:

1. Prior to the student actually serving any suspension in excess of ten consecutive or fifteen cumulative school days, the relevant members of the IEP team must conduct a manifestation determination.
2. If the IEP team determines the conduct was a manifestation of the student's disability, the IEP Team must conduct a functional behavioral assessment, unless one was already conducted and develop/modify a behavior intervention plan. Additionally, the student may not be suspended in excess of the 10/15 school day limits unless the special circumstances for emergency placement set forth above apply (dangerous weapon, illegal drugs/controlled substance, inflicted serious bodily injury on another). If special circumstances do not apply and District believes maintaining the current placement is substantially likely to result in injury to the student or others, the District can request an expedited due process hearing.
3. If the IEP team determines the conduct was not a manifestation of the student's disability, then the student may be suspended in excess of the 10/15 school day limits. The decision of the IEP Team need not be unanimous and can be made over the parents' objections subject to the parents' right to contest the determination.
4. If the conduct is deemed not a manifestation, then the District issues a NOREP with a copy of the Parents' Rights letter indicating the alternative educational placement as the placement and (under "Reasons for the Recommendations") indicating that the IEP team determined that the conduct was not a manifestation of the student's disability.

5. If the student's parents do not reject the NOREP or otherwise request a hearing, the suspension or expulsion and alternative placement may be implemented as if the student were in regular education. If the suspension is in excess of ten (10) consecutive school days, the District must offer a hearing before the Board in the same manner it would for any regular education student. This hearing may be waived by parental consent. If the conduct involved special circumstances for emergency placement, a Board hearing would only be necessary if and to the extent that the alternative placement would exceed 45 school days.
6. If parents reject the NOREP, then the student can be assigned to the interim alternative educational placement and an expedited due process hearing on the manifestation determination must take place within 20 school days of the date of the request and must result in a determination within ten school days after the hearing. If the removal exceeds 10 school days, and the conduct involved does not involve the special circumstances for emergency placements, then a hearing before the Board must be offered as it would be for students without disabilities. If the conduct involved the special circumstances for emergency placement, then the Board hearing would only be necessary if and to the extent that the alternative placement would exceed 45 school days.
7. If the District prevails in the due process proceedings, then it can continue to implement the alternative placement for the duration of the exclusion as if the student were in regular education (subject to the Board hearing requirement, if applicable).

Suspension of a Student Who Has NOT Been Determined to be Eligible for Special Education

The District may expel the child for more than ten school days to the same extent that it would expel a nondisabled child for the same offense, provided, however, that:

1. the District did not have knowledge that the child was a child with a disability before the violation occurred; and
2. if an evaluation is requested after the violation occurs, the District conducts the evaluation in an "expedited manner."

The District will be deemed to have knowledge of a disability if, prior to the violation,

1. the parent expressed a concern, in writing, to supervisory or administrative personnel or a teacher of the child that the child requires special education and related services; or
2. the teacher of a child has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Director of Special Education or other supervisory personnel; or
3. the parent has requested an evaluation.

The District will not be deemed to have knowledge of a disability if:

1. the parent of the child has not allowed an evaluation; or
2. the parent of the child has refused services; or
3. the child has been evaluated and it was determined that the child was not a child with a disability under the IDEA.