

Emergency Expulsion and Procedural Due Process

A student may be expelled immediately by the superintendent, a principal or assistant principal, or a designee of the superintendent in emergency situations, provided that the imposing administrator has good and sufficient reason to believe that the student's presence poses an immediate and continuing danger to the student, other students, or school personnel or an immediate and continuing threat of substantial disruption of the educational process.

An emergency expulsion shall continue until rescinded by the imposing administrator, or until modified or reversed pursuant to the hearing provisions set forth in WAC 392-400-305 or the appeal provisions set forth in WAC 392-400-315.

Notice of Hearing/Waiver of Hearing Right for Emergency Expulsion

1. The student and parent/guardian 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/guardian within 24 hours of the emergency expulsion and documenting delivery by obtaining his/her signature acknowledging receipt or the written certification of the person making the delivery, or (b) by certified letter deposited in the United States mail, within 24 hours of the emergency expulsion. In addition, if the notice is by certified letter, reasonable attempts shall be made to notify the student and parent/guardian by telephone or in person as reasonably possible. Such written and oral notice shall:
 - a. Be provided in the predominant language of a student and/or a parent/guardian who predominantly speak a language other than English, to the extent feasible,
 - b. Specify the alleged reason(s) for the emergency expulsion,
 - c. Set forth the corrective action or punishment taken and proposed,
 - d. Set forth the right of the student and/or his parent/guardian to a hearing for the purpose of contesting the allegation(s) as soon as reasonably possible, and
 - e. Set for the facts that:
 - i. A written request for a hearing must be received by the school district employee designated, or by his office, on or before the expiration of the tenth (10) 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 by the school district without any further opportunity for the student or his parent/guardian to contest the matter. A schedule of "school business days" should be included with the notice.

- f. The student and/or parent/guardian shall reply to the notice of opportunity for a hearing and request a hearing in writing within ten (10) 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 office.
- g. If a request for a hearing is not received within the required ten (10) school business day period, the school district may deem the student and his parent/guardian to have waived the right to a hearing and the emergency expulsion may be continued as deemed necessary by the school district.

Procedures for Prehearing and Hearing Process for an Emergency Expulsion

1. If a written request for a hearing within the required ten (10) 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 third (3rd) school business day after receipt of the request for a hearing.
2. The student and his parent/guardian 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,
 - d. Present his/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 so desired.
3. The designee 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 parent/guardian intend to introduce at the hearing.
4. The person hearing the case shall not be a witness and the guilt or innocence of the student 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 (1) school business day after the date upon which the hearing concludes, a decision as to whether or not the emergency expulsion shall be continued, shall be rendered and the student's legal counsel or, if none, the student and his parent/guardian shall be notified thereof 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 or not the emergency situation giving rise to the emergency expulsion continues), and whether or not the emergency expulsion shall be continued or a lesser form of corrective action or punishment is to be imposed.

7. An emergency expulsion may be continued following the hearing on the basis that the emergency situation continues and/or as corrective action or punishment for the action giving rise to the emergency expulsion in the first instance.

Right of Appeal of Hearing Officer's Decision for Emergency Expulsion

Appeals of the Hearing Officer's decision regarding an emergency expulsion shall be governed as follows:

1. The student and parent/guardian shall have the right to appeal the decision of the Hearing Officer to the Board of Directors. Written notice indicating the desire to appeal the hearing officer's decision shall be provided to the school district superintendent within three (3) school business days after the receipt of the decision.
2. If a notice of appeal to the board of directors is received pursuant to WAC 392-400-310(2) within the required three (3) school business days, the board shall schedule and hold an informal conference to review the matter within ten (10) school business days after the 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 handling the appeal as provided for below. At that time the student, parent, and/or counsel shall be given the right to be heard and shall be granted the opportunity to present such witnesses and testimony as the board deems reasonable. Prior to adjournment, the board shall agree to one of the following procedures:
 - a. Study the hearing record and other materials submitted and render its decision within ten (10) 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 and render its decision within fifteen (15) school business days after the date of the informal conference; or
 - c. Schedule and hold a meeting within ten (10) school business days after the date of the informal conference for the purpose of hearing the case *de novo* (*over again*).
2. In the event the school board of directors elects to hear the appeal *de novo* (*over again*), the following rights and procedures shall govern the proceedings:
 - a. The student and parent/guardian 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,
 - iii. Present his/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/she desires.
 - b. The designee 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 parent/guardian intend to introduce at the hearing.
 - c. Either a tape-recorded or verbatim record of the hearing shall be made.
- 3. Any decision by the board of directors to impose or to affirm, reverse, or modify the imposition of discipline, suspension, or expulsion upon a student shall be made only by those board members who have heard or read the evidence and who have not acted as a witness in the matter, and only at a meeting at which a quorum of the board is present, and by majority vote.

Policy References:

P3100-1	Student Rights
P3100-2	Student Responsibilities and Rules of Student Conduct
P3100-6	Exceptional Misconduct
P3100-7	Dangerous Weapons
P2040-1	Special Education and Related Services

Legal References:

RCW	9A.16.100	Washington Criminal Code
	9.41.280	Carrying dangerous weapons on school facilities
	28A.225.030	Petition to juvenile court to assume jurisdiction
	28A.600.420	Firearms on school premises, transportation, or facilities--Penalty--Exemptions
WAC	392-400-295	Emergency expulsion—Limitations
	392-400-300	Emergency expulsion--Notice of hearing--Waiver of hearing right
	392-400-305	Emergency expulsion--Prehearing and hearing process
	392-400-310	Appeals--Long-term suspension and Expulsion
	392-400-315	Appeals--Hearing before school board
	392-400-320	School Board decisions
	392-172-370 thru 385	Special Education Disciplinary Exclusion
P.L.	101-226	Drug-Free Schools and Communities Act