

POLICY COMMITTEE MEETING
NOVEMBER 6, 2017
CENTRAL OFFICE – LIBRARY
4:30 PM

AGENDA

COMMITTEE MEMBERS:

N. Carlow	J. Moses
R. Deakin	M. Nadeau
A. Dube	

- Attendance
- JLCDA – Medical Marijuana in Schools (10 mins)
- IKE – Expulsions of Students (25 mins)
- IKE-R – Expulsion Guidelines (25 mins)

NEXT MEETING: November 20 @ 4:30 p.m.

MSAD 6

MEDICAL MARIJUANA IN SCHOOLS

Maine law provides that a “primary caregiver” ~~as~~, defined as **parent, guardian or legal custodian under Maine’s medical marijuana law**, in 22 MRSA § 2423-A91(E), ~~will~~ **may** possess and ~~will~~ administer marijuana in a non-smokeable form in a school, bus or on the grounds of the preschool or primary or secondary school in which a minor qualifying patient is enrolled, if:

- A. A medical provider has provided the minor qualifying patient with a current written certification for the medical use of marijuana, and
- B. Possession of medical marijuana is for the purpose of administering it to the minor qualifying patient.

In order to facilitate administration of medical marijuana with a minimum interruption of instructional time for the student and with a minimum of disruption of routine school operations, the Board approves the following guidelines for the administration of medical marijuana:

- A. The person administering the medical marijuana must provide proof that
 - 1. He/she is the primary caregiver for the student;
 - 2. The student has a current written certification from a medical provider for the use of medical marijuana;
 - 3. The student needs to have the drug administered during the school day, as opposed to before or after school.
- B. The marijuana must be in a nonsmokeable form;
- C. The marijuana must be possessed only by the primary caregiver and only for the purpose of administering it to the student at school;
- D. Medical marijuana may only be possessed by the primary caregiver; it cannot be given to or held by any school employee, student or other person in school, with the exception of the “qualifying patient;”

- E. Only the primary caregiver may administer medical marijuana – it cannot be done by, or delegated to, a school employee or any other person than the primary caregiver;
- F. Medical marijuana may be administered only at the designated area, but not in the health clinic, as determined by the principal; the primary caregiver must go there directly and, if visitors are required to sign in, to do so;
- G. The student may not possess medical marijuana at any time or place except during the time of its consumption, at the designated location, and under the supervision of the caregiver; and
- H. This policy will be enforced where applicable and allowable by law (ie. school field trips or out-of-state or out-of-country).

A student who holds written certification for the medical use of marijuana may not be excluded (suspended or expelled) from school because he/she requires medical marijuana to attend school.

Legal Reference: Maine 2015 P.L. Ch. 369

First Reading: February 1, 2016

Adopted: March 7, 2016

Revised:

Reviewed:

EXPULSION OF STUDENTS

No student shall be expelled from school except by action of the Board. Following a proper investigation of a student's behavior and due process proceedings conducted in accordance with 20-A MRSA § 1001(8)(A), the Board shall expel the student, if found necessary for the peace and usefulness of the school, as provided in 20-A MRSA § 1001(9) and (9A).

The Board also has the authority to readmit an expelled student on satisfactory evidence that the behavior which was the cause of the student being expelled will not likely recur.

NOTICE OF EXPULSION HEARING

Before any expulsion hearing, the Superintendent shall:

- A. Provide written notice, by regular and certified mail, to the parents/guardians and the student informing them of:
 - 1. The date, time and location of the hearing;
 - 2. A description of the incident(s) that occasioned **[OR: resulted in]** the expulsion hearing;
 - 3. The student's and parents/guardians' right to review the school's records prior to the hearing;
 - 4. A description of the hearing process, including the student's right to present and cross-examine witnesses and his/her right to an attorney or other representation; and
 - 5. An explanation of the consequences of an expulsion.
- B. Invite the parents/guardians and the student to a meeting prior to the expulsion hearing to discuss the procedures of the hearing.

EXPULSION HEARING

The hearing shall be in a properly called executive session and may also be attended by persons designated by the Superintendent to present information in the case.

Upon making a decision to expel a student, the Board may:

- A. Expel the student for a specific period of time not to exceed the total number of instructional days approved by the Board for the current year; or

[NOTE: The language in A. immediately above is from 20-A MRSA § 1001(9-C)(1). Although it is not clear that this was intended to mean that a period of expulsion could carry over to instructional days in the subsequent school year, to interpret it as applying only to instructional days left in the current school year would result in unequal consequences for the exact same conduct, based solely on the date the conduct occurred. This would not be logical. MSMA's September 11, 2012 "Legal Memorandums on Significant Law Changes," prepared by attorneys at Drummond Woodsum, contains a section on expulsion which elaborates on this language and other implications of the amendments to the expulsion law.]

- B Expel the student for an unspecified period of time and authorize the Superintendent to provide the expelled student with a reentry plan, to be developed in accordance with 20-A MRSA § 1001(9-C), specifying the conditions that must be met in order for the student to be readmitted to school after the expulsion.

After the expulsion hearing, the Board shall provide written notice of its decision to the parents/guardians and the student by certified mail.

[NOTE: 20-A MRSA § 1001(8-A)(C) states, "The notice of the school board's written decision may include a reentry plan developed in accordance with subsection 9-C," which lists requirements associated with the development of the plan. The plan is to be developed by the Superintendent/designee in consultation with the student and his/her parents/ guardians as guidance to help the student understand what he/she must do to establish satisfactory evidence that the behavior resulting in the expulsion will not likely recur (see 20-A MRSA § 1001(9-C)(B)(1)). The law provides that if the student or parents do not attend the meeting to develop a reentry plan, the reentry plan must be developed by school staff and provided to the parents and student in writing (see 20-A MRSA § 1001(9-C)(B)(2-4)).]

Nothing in this policy shall prevent the Board from providing educational services in an alternative setting to a student who has been expelled.

Legal Reference: 20-A MRSA § 1001(8-A), (9), (9A-9D)
1 MRSA § 405(6)(B)

Cross Reference: JKE-R - Expulsion of Students—Guidelines
JICIA – Weapons, Violence and School Safety
JK - Student Discipline
JKD - Suspension of Students
JKF – Disciplinary Removal of Students with Disabilities

Adopted: _____

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MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

EXPULSION GUIDELINES

I. EXPULSION HEARING AND REENTRY GUIDELINES

The following steps constitute general guidelines for the conduct of an expulsion hearing. The guidelines may be adjusted to meet the flexible requirements of due process on a case-by-case basis, consistent with applicable laws.

A. Procedures for Conduct of Board Hearing to Expel

1. Any discussion, consideration or hearing by the School Board of suspension or expulsion of a student shall be in executive session.
2. The Board shall be in a public meeting and vote to enter executive session. Executive session requires a 3/5 affirmative vote of the members present and voting, and the vote must be recorded.
3. The parents/legal guardians, the student and legal counsel or other representative (if any) must be present for the hearing, except that the hearing may go forward if the parents/guardians and student have been provided prior written notice and failed to appear for the hearing.

B. Executive Session

1. General Rules of Conduct

- A. The hearing officer (Board Chair/designee or Board attorney) will conduct the hearing.
- B. Witnesses shall be sequestered in response to a request by either party.
- C. The hearing officer will state “no irrelevant or repetitious evidence will be allowed and no debate between the parties will be allowed.”
- D. The hearing officer will state that “all parties are expected to maintain the confidentiality of the proceeding.”

- E. The Board and student (at his/her own expense) may be represented by legal counsel through each stage of the process.

II. PROCEDURES

- A. The hearing officer will state for the record:
- Date of this hearing;
 - Place of hearing;
 - Time of hearing;
 - Name of student;
 - Those in attendance for the administration;
 - Those in attendance for the student; and
 - Those in attendance for the School Board.
- B. The hearing officer will request from the Superintendent a copy of the hearing notice, read the hearing notice to the Board and include the notice in the record. If no person appears at the hearing on behalf of the parents/legal guardians or student, the hearing officer will request that the Superintendent confirm that the parents/guardians and student were provided notice of the hearing.
- C. The Superintendent/designee, hereafter called “the administration,” will make an opening statement that includes an overview of the evidence, his/her recommendation, the reason(s) for the recommendation, and the legal basis for the recommended expulsion.
- D. The hearing officer will inform the student and parents/legal guardians of their rights:
- To hear the evidence;
 - To cross examine witnesses; and
 - To present witnesses and offer other relevant evidence.
- E. The hearing officer will ask if any member of the Board finds him/herself in a possible conflict of interest situation because he/she knows the student or parents/guardians to such an extent, or has knowledge of the facts to such an extent, that he/she could not impartially hear the facts and decide the issue on its merits.

- F. All witnesses shall be sworn in by the hearing officer. Each witness raises his/her right hand and is asked, "Do you solemnly affirm to tell the truth, the whole truth and nothing but the truth?"
- G. The administration calls its witnesses.
- H. After each witness has answered all questions put by the administration, then the student/designee (hereinafter, the student) may cross-examine. This should be limited to questions and not arguments with the witness.
- I. The administration may ask rebuttal questions after the student finishes questioning.
- J. Members of the Board may ask questions at the conclusion of the rebuttal.
- K. The student may then call his/her own witnesses to testify, and the student may testify. All witnesses will be sworn. The administration may cross-examine witnesses. The student may ask rebuttal questions. After the rebuttal questions, the Board may ask questions.
- L. When all the student's witnesses have completed testimony (including the student), the administration may call additional rebuttal witnesses who may be cross-examined.
- M. At the end of the testimony, the administration shall make a statement which should include its recommendations. The same may then be done by/for the student.
- N. The Board should then deliberate in executive session. The Superintendent, Board attorney, administration, the student charged, his/her parents/legal guardians, and the student's legal counsel may remain for deliberations. If the student and representatives elect not to be present during deliberations, the administration will also be excluded from deliberations, except that the Superintendent may remain to provide guidance to the Board if he/she was not directly involved in the investigation/presentation of evidence.
- O. The Board shall discuss whether the charges are more likely than not supported by the evidence presented. The Board may discuss and/or draft proposed finding of fact(s) concerning the charges prior to leaving the executive session.

- P. If the charges are more likely than not supported, the Board shall discuss whether an expulsion shall be for a specified period of time or for an indefinite period.
- Q. The Board shall then leave executive session.

III. PUBLIC SESSIONS

- A. In public session, a member of the Board may make a motion to “expel a student and direct the Superintendent to provide the student and his/her parents/guardians with the Board’s findings of fact(s).” Following a second, the Board Chair should state the motion and the Board should vote. If no motion is made to expel, the student will return to school at the conclusion of the previously-imposed administrative suspension.

If the student is expelled, a member of the Board shall make a motion as to whether the expulsion shall be for a specified period of time or for an indefinite period. If the expulsion is for an indefinite period, the Board may authorize the Superintendent to develop a reentry plan for the student as described in Section IV below.

- B. The Superintendent is responsible for notifying the parents/legal guardians (and the student) of the Board’s decision.

IV. REENTRY PLAN GUIDELINES

If the Board expels a student for an indefinite period of time and authorizes the Superintendent to develop a reentry plan, the following steps are required by law.

- A. The Superintendent/designee shall develop the reentry plan in consultation with the student and his/her parents/legal guardians to provide guidance that helps the student understand what he/she must do to establish satisfactory evidence that the behavior that resulted in the expulsion will not likely recur.
- B. The Superintendent/designee shall send a certified letter or hand-deliver a letter to the parents/legal guardians of the student, giving the date, time and location of a meeting to develop a reentry plan.
- C. If the student and the student’s parents/legal guardians do not attend the meeting, the reentry plan must be developed by the Superintendent/designee.

- D. The reentry plan may require the student to take reasonable measures determined by the Superintendent that will help establish the student's readiness to return to school. Professional services determined to be necessary by the Superintendent must be provided at the expense of the student's parent/legal guardians and/or the student. (See policy JKF for requirements related to students with disabilities.)
- E. The reentry plan must be provided to the parents/legal guardians and the student.
- F. The Superintendent shall designate an appropriate school employee to review the student's progress with the reentry plan at one month, three months and six months after the initial reentry plan meeting, and at other times as determined necessary by the designated employee, in consultation with the Superintendent.

Legal Reference: 20-A MRS § 1001 (8A), (9C)

Cross Reference: JKF – Disciplinary Removals of Students with Disabilities

Adopted: _____

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