

## The Pupil Fair Dismissal Act

*The Pupil Fair Dismissal Act establishes policies, grounds, and procedures for dismissing students from public schools*

The Pupil Fair Dismissal Act includes the policies, grounds, and procedures for dismissing students from public schools ([Minn. Stat. §§ 121A.40-121A.56](#)).

Dismissals occur when:

- a school administrator suspends a student from school for between one and ten school days;
- a school board excludes a student from school for some or all of the remaining school year; or
- a school board expels a student from school for up to one calendar year.

Grounds for all dismissals include: willfully violating a reasonable school board regulation; willful conduct that significantly disrupts others, officials' ability to perform their duties, or extracurricular activities; or willful conduct that endangers others or school property. If a student is dismissed more than ten days in a school year, a district must try to meet with the student and parent to determine whether the student needs a mental health screening or other services. Corporal punishment is prohibited. Dismissals do not include removing students from class.

*Districts must have a school discipline policy*

A local school discipline policy must: emphasize detecting behavioral problems early and preventing inappropriate behavior from recurring; recognize a school's ongoing responsibility to educate a dismissed student; and provide alternative education services where appropriate to help a student meet high school graduation standards. Schools must try to provide alternative educational services before dismissing a student unless the student is dangerous. An area learning center cannot refuse to enroll a student solely because the student is dismissed.

*School officials must hold an informal hearing before suspending a student*

Under a school board's rules and grounds for suspensions, an administrator: must not impose consecutive suspensions for the same misconduct unless an exception applies; must hold an informal conference to explain the grounds and evidence; may allow the student to explain, before suspending the student, unless the student is dangerous; must give the student written notice of the grounds, facts, and suspension policy and must notify the parent as soon as possible within 48 hours of suspending the student; and may develop a readmission plan for the suspended student that includes alternative educational services. An administrator may suspend a student pending a school board decision in an expulsion or exclusion hearing; the student must be given alternative education services if this suspension lasts more than five school days.

*School officials must hold a formal hearing before excluding or expelling a student*

A school board may exclude or expel a student only after holding a formal hearing conducted by an impartial official unless the student and parent waive the hearing. Hearing procedures require: written notice to the student and parent about the intended action; a hearing within ten days unless the hearing official grants an extension of up to five days; a hearing at a convenient time and place; an impartial

hearing official; a hearing record; student access to the student's records; the student's right to compel school officials to testify, to present evidence and testimony, and to refuse to testify; a hearing official's recommendation based on the evidence and made to the school board within two days; and a decision by the school board at a public meeting, where parties may comment, within five days. A school board or a student may appeal to the education commissioner, whose decision is subject to judicial review. An administrator must develop a readmission plan for an excluded or expelled student.

***Districts, under certain circumstances, may suspend, exclude, or expel a student with a disability***

A student with a disability may be suspended. If the student is suspended for more than five consecutive school days or ten cumulative school days in one school year, and a change of placement is not recommended, the student's individualized education program (IEP) team must meet within ten days to determine the services and setting needed to realize the student's educational goals.

A district must have a policy on appropriately using peace officers and crisis teams to remove a disabled student from a classroom, school building, or school grounds. If a peace officer removes a disabled student twice in a 30-day period, the student's IEP team must determine whether the IEP is adequate or additional evaluation is needed.

A disabled student suspended for more than five consecutive school days is entitled to alternative educational services. Before an administrator expels or excludes a disabled student, the student's IEP team and the parent must determine if the student's conduct is a manifestation of the student's disability or results from the school not implementing the student's IEP. Schools must meet prescribed statutory standards when using restrictive procedures to restrain or remove a disabled student. A disabled student who is excluded or expelled continues to receive special education and related services.

***School boards must expel a student who brings a firearm to school unlawfully***

A school board must expel for at least one year a student who brings a firearm to school unlawfully, except the board may modify this requirement on a case-by-case basis. A district may disclose information about the expulsion to a possibly-enrolling district. Consistent with the federal Gun-Free Schools Act and the local school board policy, a school official, as appropriate, and as soon as practicable, must refer to the criminal justice or juvenile delinquency system a student who brings a firearm to school unlawfully.

***Students must not carry a dangerous weapon on school property or buses***

Students must not possess a dangerous weapon on school property or a school bus carrying students unless an exception applies. A student who violates this prohibition may be guilty of a felony or misdemeanor and imprisoned or fined. A law enforcement agency must notify school officials when a student, based on probable cause, is believed to have committed, or is adjudicated delinquent for, an offence involving using or possessing a dangerous weapon.

**For more information:** Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research publication *Laws Governing Student Behavior*, August 2016, and *School Resource Officers (SROs)*, December 2015.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.