

**SUSPENSION, EXPULSION and DUE PROCESS**

It is the goal of the Ledyard Board of Education to ensure the safety and welfare of all students in attendance and to maintain an atmosphere conducive to learning. In keeping with this goal, students are expected to comply with school rules and regulations, as well as Board policies. Students may be disciplined for conduct occurring on school grounds, in vehicles used for student transportation, or at any school-sponsored activity that endangers persons or property, is seriously disruptive of the educational process, or that violates a publicized policy of the Board. Students also may be disciplined for conduct that occurs off school grounds if such conduct is seriously disruptive of the educational process and violates a publicized policy of the Board.

This policy provides notice of student actions that can lead to suspension and/or expulsion and the procedures to be followed when awarding such punishment to ensure the student's right to due process. However, nothing in this policy shall be construed to inhibit the administration from taking appropriate and timely action in an emergency situation.

All students of Ledyard Public Schools and their parents/guardians shall be informed annually of this policy through its inclusion in student handbooks.

**A. Definitions**

**"Days"** are defined as days when school is in session.

**"Exclusion"** shall be defined as any denial of public school privileges to a student for disciplinary purposes.

**"Removal"** shall be defined as an exclusion from a classroom for all or part of a single class period, provided such exclusion shall not extend beyond ninety (90) minutes.

**"In-School Suspension"** shall be defined as an exclusion from regular classroom activity for no more than ten (10) consecutive school days, but not exclusion from school, provided such exclusion shall not extend beyond the end of the school year in which such in-school suspension was imposed.

**"Suspension"** shall be defined as an exclusion from school privileges, or from transportation services only, for no more than ten (10) consecutive school days, provided such exclusion shall not extend beyond the end of the school year in which such suspension was imposed.

**"Expulsion"** shall be defined as an exclusion from school privileges for more than ten (10) consecutive school days and shall be deemed to include, but not be limited to, exclusion from the school to which such student was assigned at the time such disciplinary action was taken. The period of exclusion may extend into the school year following the school year in which the exclusion was imposed but shall not extend beyond a period of one calendar year.

**"Emergency"** shall be defined as a situation under which the continued presence of the student in the school imposes such a danger to persons or property or such a disruption of the educational process that a hearing may be delayed until a time as soon after the exclusion of such student as possible.

**"School"** shall be defined as any school under the direction of the Ledyard Board of Education or any school for which the Board pays eighty (80) percent or more of the tuition costs for students enrolled in such school.

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**“School-sponsored activity”** is defined as any activity sponsored, recognized or authorized by a board of education and includes activities conducted on or off school property.

**“Controlled Drugs”**, as defined by Section 21a-240 of the Connecticut General Statutes (CGS), are those drugs: which contain any quantity of a substance that has been designated as subject to the federal Controlled Substances Act; which has been designated as a depressant or stimulant drug pursuant to federal food and drug laws; or which has been designated by the Commissioner of Consumer Protection pursuant to CGS Section 21a-243 as having a stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and as having a tendency to promote abuse or psychological or physiological dependence, or both. Alcohol, nicotine and caffeine are specifically excluded from characterization as “controlled drugs”.

**“Controlled Substance”**, as defined by CGS Section 21a-240, means a drug, substance or immediate precursor in schedules I to V, inclusive, of the Connecticut controlled substance scheduling regulations adopted pursuant to CGS Section 21a-243.

**“Dangerous instrument”**, as defined by CGS Section 53a-3, means any instrument, article or substance which, under the circumstances in which it is used or attempted or threatened to be used, is capable of causing death or serious physical injury, and includes a vehicle and a dog that has been commanded to attack.

**“Deadly weapon”**, as defined by CGS Section 53a-3, means any weapon, whether loaded or unloaded, from which a shot may be discharged, or a switchblade knife, gravity knife, billy, blackjack, bludgeon, or metal knuckles.

**“Electronic defense weapon”**, as defined by CGS Section 53a-3, means a weapon which by electronic impulse or current is capable of immobilizing a person temporarily but is not designed to inflict death or serious physical injury, including a stun gun or other conductive energy device (i.e., an electro-shock weapon such as a Taser).

**“Martial arts weapon”**, as defined by CGS Section 53a-3, means a nunchaku, kama, kasari-fundo, octagon sai, tonfa or chinese star.

**“Possess”**, as defined by CGS Section 53a-3, means to have physical possession or otherwise to exercise dominion or control over tangible property (i.e., to have on one’s person, in a locker, purse, backpack or car, etc.).

**“Vehicle”**, as defined by CGS Section 53a-3, means a “motor vehicle” as defined in CGS Section 14-1, a snow mobile, any aircraft, or any vessel equipped for propulsion by mechanical means or sail.

**“Firearm”** means: (1), as defined by CGS Section 53a-3, any sawed-off shotgun, machine gun, rifle, shotgun, pistol, revolver or other weapon, whether loaded or unloaded, from which a shot may be discharged; or (2), as defined by Title 18, Section 921 of the United States Code (18 USC 921), (a) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (b) the frame or receiver of any such weapon; (c) any firearm muffler or firearm silencer; or (d) any destructive device. The term “firearm” used herein does not include any antique firearm (as defined in 18 USC 921). The term “destructive device” used herein means: (1) any bomb, grenade, rocket having a propellant charge of more than four ounces, missile

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having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the weapons described herein that is explosive or incendiary or contains poison gas; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant and which has any barrel with a bore of more than one-half inch in diameter; and (3) any combination of parts either designed or intended for use in converting any device into any destructive device previously described herein and from which a destructive device may be readily assembled.

**“Weapon”**, as defined by CGS Section 29-38, means any BB gun, any blackjack, any metal or brass knuckles, any police baton or nightstick, any dirk knife or switch knife, any knife having an automatic spring release device by which a blade is released from the handle and having a blade of over one and one-half (1-1/2) inches in length, any stiletto, any knife for which the edged portion of the blade is four (4) inches or over in length, any martial arts weapon or electronic defense weapon (as defined in CGS Section 53a-3), or any other dangerous or deadly weapon or instrument.

**B. Actions Leading to Suspension and/or Expulsion**

A student may be suspended or expelled for conduct occurring on school grounds, in vehicles used for student transportation, or at any school-sponsored activity that endangers persons or property, is seriously disruptive of the educational process, or that violates a publicized policy of the Board. Students also may be suspended or expelled for conduct that occurs off school grounds if such conduct is seriously disruptive of the educational process and violates a publicized policy of the Board. Such punishable student conduct includes, but is not limited to, the following:

1. Causing danger to the physical well-being of himself/herself or other people that is not reasonably necessary for self-defense;
2. Intentionally causing or attempting to cause physical injury to another person that is not reasonably necessary for self-defense;
3. Intentionally causing or attempting to cause damage to school property or material belonging to another person (private property);
4. Stealing or attempting to steal private or school property or taking or attempting to take personal property or money from any other person;
5. The use, either spoken or written, of obscene or profane language or gestures;
6. Deliberate refusal to obey the directions or orders of a member of the school staff;
7. Harassment and/or hazing/bullying on the basis of a person’s race, religion, ethnic background, gender or sexual orientation;
8. Open defiance of the authority of any teacher or person having authority over the student, including verbal abuse;
9. Threatening, intimidating or blackmailing in any manner, including orally, in writing or via electronic communication, a member of the school community, including an employee of Ledyard Public Schools or a fellow student;

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10. Possession of a firearm, deadly weapon, dangerous instrument, electronic defense weapon, or martial arts weapon;
11. Possession of any weapon (able to function or not) or weapon facsimile, including but not limited to a knife (regardless of the length of blade), pistol, pellet guns and/or air soft pistols;
12. Possession, transmission, distribution, selling, use or consumption of any alcoholic beverages, controlled substances or intoxicants of any kind or any facsimile of a controlled substance or intoxicant of any kind;
13. Knowingly being in the presence of those who are in possession of, using, transmitting, or being under the influence of any alcoholic beverages, controlled substances or intoxicants of any kind;
14. Participation in any unauthorized occupancy by any group of students or others of any part of any school, school premises or other building owned by any school district after having been ordered to leave said school premises or other facility by the Principal or other person then in charge of said school building or facility;
15. Participation in any walkout from a classroom or school building by any group of students and refusing to immediately return to said classroom or school building after having been directed to do so by the Principal or other person then in charge of said classroom or school building;
16. Intentional incitement which results in an unauthorized occupation of, or walkout from, any school building, school premises, facility or classroom by any group of students or other persons;
17. Intentional and successful incitement of truancy by other students;
18. Intentionally providing other students with test questions and/or answers or otherwise knowingly providing support to other students for the purpose of allowing them to cheat on their schoolwork (e.g., writing a research paper for another student with the intention of them passing it off as their own work);
19. Unauthorized leaving of school grounds or school-sponsored activities;
20. Violation of school rules and practices or Board policy, regulation or agreement, including that dealing with conduct in vehicles used for student transportation and the use of school district equipment;
21. Violation of any federal or state law which would indicate that the violator presents a danger to any person in the school community or to school property;
22. Lying, misleading or being deceitful to a school employee or person having authority over the student;
23. Possession or use of tobacco products on school property, in school transportation vehicles or at school-sponsored activities;

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24. Intentionally inhaling, ingesting, applying or using an inhalant, which includes, but is not limited to, abusable glues, aerosol paints or substances containing a volatile chemical, in a manner contrary to directions for use, cautions or warnings appearing on a label of a container of the inhalant and for the purpose of (1) creating or inducing a condition of intoxication, hallucination or elation or (2) changing, distorting or disturbing a person's eyesight, thinking process, balance or coordination;
25. Possession, distribution, selling, use or consumption of any performance-enhancing drugs, including, but not limited to, anabolic steroids and food supplements, by students involved in any schooled-related or school-sponsored athletic activity unless the student has been specifically and properly authorized for such usage for a valid medical purpose in accordance with Board policy;
26. Unauthorized entry into school facilities or school transportation vehicles or aiding and abetting another person in such unauthorized entry;
27. Trespassing on school grounds while under an out-of-school suspension or expulsion;
28. Possession or ignition of any fireworks or other explosive materials or unauthorized ignition of any combustible materials on school property, in school transportation vehicles or at school-sponsored activities;
29. Making a "bomb threat", whether real or not, in any manner, and/or knowingly encouraging, causing, aiding or assisting another student or adult in making or communicating a bomb threat; or
30. Distributing photographs, digital images or videos of students and/or school professionals without their permission.

**C. Suspension/Expulsion in an Emergency Situation**

The administration shall have the authority to immediately suspend or expel from school any student when an emergency situation exists, as defined in paragraph A, above. If such an emergency situation exists, the applicable hearing(s), as delineated in this policy, shall be held as soon after the student has been excluded as possible.

**D. Suspension Procedure**

1. The administration of each school shall have the authority to:
  - a. Invoke in-school suspension for a period of up to ten (10) days for any student for one or more of the reasons stated in paragraph B, above, in accordance with the procedure outlined in this policy, unless, during a hearing held pursuant to this section, the administration determines that:
    - (1) For a student in grades three to twelve (3 to 12), inclusive:
      - The student being suspended poses such a danger to persons or property or causes such a disruption of the educational process that the student must be excluded from school during the period of suspension; or

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- An out-of-school suspension is appropriate for the student based on evidence of (a) previous disciplinary problems that have led to suspensions or expulsion of the student and (b) efforts by the administration to address such disciplinary problems through means other than out-of-school suspension or expulsion, including positive behavioral support strategies.

(2) For a student in grades preschool to two (Pre-K to 2), inclusive, an out-of-school suspension is appropriate for the student being suspended based on evidence that the student's conduct on school grounds is of a violent or sexual nature that endangers persons.

b. Suspend the school transportation services for any student whose conduct while awaiting or receiving transportation to and from school violates any of the standards set forth in paragraph B, above.

2. An in-school suspension will normally be served in the school that the suspended student attends; however, if the Superintendent determines otherwise, the student may be required to serve the in-school suspension in another school within the Ledyard Public Schools District.

3. Except in an "emergency" situation, the handicapping conditions of a student receiving special education services or accommodations under a "504 Plan" shall be considered prior to making a decision to suspend. Further guidance regarding disciplining students who receive special education services or accommodations under a "504 Plan" is provided in subsequent sections of this policy.

4. In making a determination as to whether conduct is seriously disruptive of the educational process, the administration may consider, but such consideration shall not be limited to:

- a. Whether the incident occurred within close proximity of a school;
- b. Whether other students from the school were involved;
- c. Whether there was any gang involvement;
- d. Whether the conduct involved violence, threats of violence or the unlawful use of a weapon (as defined in CGS 29-38), and whether any injuries occurred; and
- e. Whether the conduct involved the use of alcohol.

5. Unless an emergency situation exists, no student shall be suspended from school or placed in in-school suspension without an informal hearing by the administration, at which such student shall be informed of the reasons for the disciplinary action and given an opportunity to explain the situation. The administration shall then determine whether out-of-school suspension or in-school suspension is warranted.

6. A formal hearing pursuant to CGS 4-176e to 4-180a, inclusive, and CGS 4-181a may be held if the administration determines that the circumstances surrounding the incident so require. The formal hearing shall be conducted in accordance with the guidance subsequently provided in this policy.

7. No student shall be suspended more than ten (10) times or a total of fifty (50) days in one school year, whichever results in fewer days of exclusion, unless such student is granted a formal hearing as outlined above.

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8. In determining the length of a suspension period, the administration may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of such student.

9. Whenever a student is suspended, the administration shall notify the Superintendent, or his/her designee, not later than twenty-four (24) hours after the suspension as to the name of the student who has been suspended and the reason for the suspension. Additionally, if such student is a minor, the administration shall also inform the student's parents/guardians as to the period of suspension and the reason for the suspension within twenty-four (24) hours of the time that the student has been excluded.

10. Any student who is suspended shall be given an opportunity to complete any class work including, but not limited to, examinations which the student missed during the period of his/her suspension. However, students under suspension (either in or out of school) shall not participate in extracurricular activities during the period of their suspension.

11. For any student who is suspended for the first time and who has never been expelled, the school administration may shorten the length of or waive the suspension period if the student successfully completes an administration-specified program and meets any other conditions required by the administration. Such administration-specified program shall not require the student or his/her parents/guardians to pay for participation in the program.

12. Whenever a student is suspended, notice of the suspension and the conduct for which the student was suspended shall be included on the student's cumulative educational record. Such notice shall be expunged from the cumulative educational record when the student graduates from high school. In the case of a suspension of a student for which the length of the suspension period is shortened or the suspension period is waived pursuant to paragraph D.11, above, such notice may be expunged earlier, at the administration's choosing, when the student completes the administration-specified program and meets any other conditions required by the administration pursuant to paragraph D.11, above.

**E. Mandatory Expulsion**

Expulsion proceedings shall be required for any student in grades kindergarten to twelve (K to 12), inclusive, with the exception of those receiving special education services or accommodations under a "504 Plan" for which additional guidance is provided later in this policy, whenever there is reason to believe that the student:

1. On school grounds, in vehicles used for student transportation, or at any school-sponsored activity, was in possession of a firearm (as defined in 18 USC 921) or deadly weapon, dangerous instrument or martial arts weapon (as defined in CGS 53a-3);
2. Off school grounds, did possess such a firearm in violation of CGS 29-35 or did possess and use such a firearm, deadly weapon or dangerous instrument in the commission of a crime under CGS Chapter 952 (Penal Code); or
3. On or off school grounds, offered for sale or distribution a controlled substance (as defined in CGS 21a-240) whose manufacture, distribution, sale, prescription, dispensing,

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transporting or possessing with intent to sell or dispense, offering, or administering is subject to criminal penalties under CGS 21a-277 and/or 21a-278.

The student shall be expelled for one calendar year if the Board, or an impartial hearing board, finds that the student did so possess or so possess and use, as appropriate, a firearm, instrument or weapon or did so offer for sale or distribution such a controlled substance, provided the Board, or impartial hearing board, may modify the period of expulsion for a student on a case-by-case basis as discussed later in this policy.

**F. Expulsion Procedure**

1. The Board, at a meeting at which three or more Board members are present, may, upon the Superintendent's recommendation, expel any student in grades three to twelve (3 to 12), inclusive, for one or more of the reasons stated in this policy in accordance with the procedure outlined herein and provided that a majority of the Board members sitting in the expulsion hearing vote to expel and that at least three affirmative votes for expulsion are cast. Students in grades kindergarten to two (K to 2), inclusive, may only be expelled for one or more of the mandatory offenses delineated in paragraph E, above.

2. The Board may establish an impartial hearing board, consisting of one or more persons, for the purpose of conducting expulsion hearings pursuant to this policy. No Board member shall be a member of the hearing board. The hearing board, when established by the Board, shall have the authority to conduct the expulsion hearing and render a final decision in accordance with the provisions of CGS 4-176e to 4-180a, inclusive, and CGS 4-181a.

3. Unless an emergency situation exists, no student shall be expelled without a formal hearing held pursuant to CGS 4-176e to 4-180a, inclusive, and CGS 4-181a. In the case of an emergency situation, such hearing shall be held as soon after the expulsion as possible. An attorney or other advocate may represent the student during the expulsion proceedings, and, unless an "emergency" situation exists, the student's parent/guardian has the right to have the expulsion hearing postponed for up to one week (seven (7) calendar days) to allow time to obtain representation.

4. Except in an "emergency" situation, the handicapping conditions of a student receiving special education services or accommodations under a "504 Plan" shall be considered prior to making a decision to expel. Further guidance regarding disciplining such students is provided in subsequent sections of this policy.

5. **Expulsion Hearing Notice.** Upon receiving a recommendation for expulsion from the Superintendent, the Board shall give the student, and the student's parents/guardians if the student is a minor, written notice of the formal expulsion hearing to be held pursuant to CGS 4-176e to 4-180a, inclusive, and CGS 4-181a. In the case of a minor, the written notice of the expulsion hearing shall be provided to the student's parents/guardians at least five (5) business days prior to the hearing. The written notice shall include the following information:

- a. A statement of the time, place and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;

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- c. A reference to the particular sections of statutes, regulations and/or Board policy involved;
- d. A short and plain statement of the matters asserted;
- e. Information concerning the parent's/guardian's and the student's legal rights and concerning legal services that are provided free of charge or at a reduced rate that are available locally and how to access such services;
- f. A statement that the Board is only required to offer an alternative educational opportunity to an expelled student as delineated below in paragraph H of this policy.

6. **Rules of Evidence.** The Board shall not be bound by formal rules of evidence but shall assure fairness to all parties involved in the expulsion proceedings regarding the presentation of evidence, including the following:

- a. Any oral or documentary evidence may be received, but the Board shall, as a matter of policy, provide for the exclusion of irrelevant, immaterial or unduly repetitious evidence;
- b. The Board shall give effect to the rules of privilege recognized by law;
- c. When an expulsion hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
- d. A party may conduct cross-examination required for a full and true disclosure of the facts;
- e. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available, and upon request, parties to the expulsion proceedings shall be given an opportunity to compare the copy with the original;
- f. Notice may be taken of judicially recognized facts and of generally recognized technical or scientific facts within the Board's specialized knowledge;
- g. Parties shall be notified in a timely manner of any material noticed, including any memoranda or data from Ledyard Public Schools, and the parties shall be afforded an opportunity to contest the material so noticed: and
- h. The Board's experience, technical competence, and specialized knowledge may be used in the evaluation of the evidence.

7. Whenever a student against whom an expulsion hearing is pending withdraws from school after notification of such hearing but before the hearing is completed and a decision rendered pursuant to this policy, (a) notice of the pending expulsion hearing shall be included on the student's cumulative educational record, and (b) the Board, or impartial hearing board, shall complete the expulsion hearing and render a decision.

8. **Expulsion Hearing.** During the expulsion hearing, the student and/or the student's parents/guardians may be represented by counsel at the student's and/or the student's parent's/guardian's own expense. Additionally:

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- a. Each party shall be afforded the opportunity to (1) respond, (2) cross-examine other parties, intervenors and witnesses, and (3) present evidence and argument on all issues involved.
- b. Persons not named as parties or intervenors may, in the discretion of the Board, be given an opportunity to present oral or written statements. The Board may require any such statements to be given under oath or affirmation.
- c. The Board, at its expense, shall provide a translator or interpreter whenever the student or his/her parents/guardians do not speak English sufficiently or have a disability that would otherwise preclude them from effectively participating in the hearing.

9. In making a determination as to whether conduct is seriously disruptive of the educational process, the Board may consider, but such consideration shall not be limited to: (1) whether the incident occurred within close proximity of a school; (2) whether other students from the school were involved; (3) whether there was any gang involvement; (4) whether the conduct involved violence, threats of violence or the unlawful use of a weapon (as defined in CGS 29-38), and whether any injuries occurred; and (5) whether the conduct involved the use of alcohol.

10. If the Board, or impartial hearing board, determines that a student's conduct warrants expulsion based on the evidence presented at the expulsion hearing, then:

- a. In determining the length of an expulsion and the nature of any alternative educational opportunity to be offered to the student, the Board may receive and consider evidence of past disciplinary problems which have led to removal from a classroom, suspension or expulsion of the student.
- b. For any student expelled for the first time and who has never been suspended from school, except for a student who has been expelled based on possession of a firearm or deadly weapon (as previously defined), the Board, or the impartial hearing board, may shorten the length of or waive the expulsion period if the student successfully completes a specified program and meets any other conditions required by the Board, or impartial hearing board. Such specified program shall not require the student or the student's parents/guardians to pay for participation in the program.
- c. Within twenty-four (24) hours of the time that the Board, or impartial hearing board, has decided to expel the student, the Superintendent, or his/her designee, shall orally inform such student, and the student's parents/guardians if such student is a minor, of the decision to expel, the effective date of the expulsion and the period of expulsion.

11. **Final Decision in an Expulsion Case.** The final decision of the Board, or that of an impartial hearing board, in an expulsion case shall be reduced to writing and promptly delivered as delineated below:

- a. The final decision shall state the name of each party and the most recent mailing address provided to the Board for each party or their authorized representative.
- b. In the case of a decision to expel the student, the written final decision shall include (1) the findings of fact and conclusions of law upon which the decision was

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based, (2) the period of expulsion, (3), if applicable, any conditions for shortening or waiving the expulsion period pursuant to paragraph F.10.b, above, and (4) a description of any alternative educational opportunity offered pursuant to this policy or a statement that one will not be provided and why. Findings of fact shall be exclusively based on the evidence in the record of the expulsion hearing and on matters noticed.

c. The final decision shall be promptly delivered to each party, or their authorized representative, personally or by United States mail, certified or registered, postage prepaid, return receipt requested.

d. The final decision shall be effective when personally delivered or mailed, or on a later date as specified by the Board.

12. **Record of the Expulsion Hearing.** The record of an expulsion hearing shall include: (1) written notices related to the expulsion; (2) all petitions, pleadings, motions and intermediate rulings; (3) evidence received or considered; (4) questions and offers of proof, objections and rulings thereon; (5) the official transcript of proceedings relating to the expulsion, or, if not transcribed, any recordings or stenographic record of the proceedings; (6) proposed final decisions and exceptions thereto; and (7) the final decision. Any recording or stenographic record of expulsion hearing proceedings shall be transcribed on request of any party to the expulsion hearing. The requesting party shall pay the cost of such transcript.

13. **Actions Subsequent to Student Expulsion.** Whenever a student is expelled:

a. Notice of the expulsion and the conduct for which the student was expelled shall be included on the student's cumulative educational record. Such notice, except for notice of an expulsion of a student in grades nine to twelve (9 to 12), inclusive, based on possession of a firearm (as defined by 18 USC 921) or deadly weapon (as defined in CGS 53a-3):

(1) Shall be expunged from the student's cumulative educational record by the administration when the student graduates from high school, or

(2) May be expunged from the student's cumulative educational record before the student graduates from high school if: (a) in the case of a student for which the length of the expulsion period is shortened or the expulsion period is waived as provided for in previous paragraph F.10.b of this policy, the Board determines that an expungement is warranted at the time the student completes the Board-specified program and meets any other conditions required by the Board, or (b) the student has demonstrated to the Board that the conduct and behavior of the student in the years following the expulsion warrant an expungement. The Board, in determining whether to expunge the expulsion notice prior to high school graduation, may receive and consider evidence of any subsequent disciplinary problems that have led to removal from a classroom, suspension or expulsion of the student.

b. If a student is expelled for possession of a firearm or deadly weapon, the Board shall report the violation to the Ledyard Police Department.

c. If a student is expelled for the sale or distribution of a controlled substance, the Board shall refer the student to an appropriate state or local agency for

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rehabilitation, intervention or job training, or any combination thereof, and inform such agency of the referral.

d. The Superintendent shall ensure that information on student expulsions for the possession of weapons is submitted to the Commissioner of Education as required.

14. **Request for Reconsideration or Early Readmission**. An expelled student, or his/her parents/guardians in the case of a minor, has the right to request that the Board reconsider the expulsion decision or allow the student early readmission to school subject to the following:

a. An expelled student may apply for early readmission to school at any time. However, any such readmission shall be at the discretion of the Board. The Board may condition such readmission on specified criteria.

b. Within fifteen (15) days after the personal delivery or mailing of the final decision, any party to the expulsion case may file a petition with the Board, pursuant to CGS 4-181a, for reconsideration of the expulsion decision on the ground that: (1) an error of fact or law should be corrected; (2) new evidence has been discovered which materially affects the merits of the case and which for good reasons was not presented in the expulsion hearing; or (3) other good cause for reconsideration has been shown.

**G. Ledyard Students Expelled by Another Board of Education**

1. The Board may adopt the decision of a student expulsion hearing conducted by another school district pursuant to CGS 10-233d provided that the Board, or an impartial hearing board, shall hold a formal hearing, as previously delineated in this policy, which shall be limited to a determination of whether the conduct for which the student was expelled by the other school district would also warrant expulsion under the Board's policies. The student shall be excluded from school pending such hearing. The excluded student shall be offered an alternative educational opportunity as required by this policy.

2. If a student enrolls in Ledyard Public Schools while an expulsion hearing is pending in another school district, the student shall not be excluded from school pending completion of the expulsion hearing in the other district unless an "emergency" situation exists. However, based on the student's alleged conduct in the other school district for which the expulsion hearing is pending, the administration may suspend the student and recommend an expulsion hearing pursuant to this policy.

**H. Alternative Educational Opportunity for Expelled Students**

1. Any student under sixteen (16) years of age who is expelled shall be offered an alternative educational opportunity, which shall be (1) alternative education (as defined by CGS 10-74j) with an individualized learning plan, or (2) in accordance with the standards adopted by the State Board of Education pursuant to CGS 10-233o, during the period of expulsion. The student's parents/guardians may choose to not have the student enrolled in an alternative educational opportunity and shall not be subject to truancy laws during the period of expulsion.

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2. The Board shall offer an alternative educational opportunity to any student expelled for the first time who is sixteen (16) to eighteen (18) years of age and who wishes to continue his or her education provided that the student complies with any conditions established by the Board, or impartial hearing board. Such alternative educational opportunity may include, but shall not be limited to, the placement of a student who is at least seventeen (17) years of age in an adult education program pursuant to CGS 10-69. Any student participating in any such adult education program during a period of expulsion shall not be required to withdraw from school.
3. The Board, or impartial hearing board, shall count the expulsion of a student when he or she was less than sixteen (16) years of age for purposes of determining whether an alternative educational opportunity is required to be offered to the student when he or she is between the ages of sixteen (16) and eighteen (18).
4. The Board is not required to offer any alternative educational opportunity for an expelled student who is age nineteen (19) years or older.
5. The Board may, in its discretion, offer an alternative educational opportunity to a student for whom such alternative educational opportunity is not required pursuant to CGS 10-233d.
6. Whenever a student requiring special education and related services is expelled, regardless of the student's age, the Board shall provide an alternative educational opportunity that is consistent with the student's educational needs during the period of the expulsion in accordance with the guidance provided elsewhere in this policy.
7. Refer to Policy 6172 for more guidance on Alternative Education Programs.

**I. Students Committed to Juvenile Detention Center or Other Residential Placement**

1. For any student who commits an expellable offense and is subsequently committed to a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement for such offense, the Superintendent shall recommend to the Board whether to hold expulsion proceedings. Any resulting period of expulsion shall run concurrently with the period of commitment to a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement.
2. If a student who committed an expellable offense seeks to return to Ledyard Public Schools after participating in a diversionary program or having been detained in a juvenile detention center, the Connecticut Juvenile Training School, or any other residential placement and the student has not already been expelled by the Board for the offense, the student shall be allowed to return to school and the Board may not expel the student for additional time for the offense.

**J. Guidance on Suspensions/Expulsions Involving Students with Disabilities**

1. Except in an "emergency" situation, the handicapping conditions of a student receiving special education services or accommodations under a "504 Plan" shall be considered prior to making a decision to suspend and/or a recommendation for expulsion.

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2. **Authority of School Personnel.** The administration of each school may consider any unique circumstances on a case-by-case basis when determining whether a change of placement, consistent with the other requirements of this policy and state/federal law, is appropriate for a child with a disability who violates a code of student conduct established pursuant to Board policy.

a. School personnel may remove a child with a disability who violates a code of student conduct from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) consecutive school days (to the extent those alternatives are applied to children without disabilities), and for additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct, as long as the additional removal is not one in a series that represents a pattern of removal constituting a change of placement.

b. After a child with a disability has been removed from his or her current placement for a total of ten (10) school days in the same school year, during any subsequent days of removal the District must provide services to the extent required under paragraph J.3.

c. For disciplinary changes in placement that would exceed ten (10) consecutive school days (i.e., expulsion), and if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the child's disability pursuant to paragraph J.5, school personnel may apply the relevant disciplinary procedures to children with disabilities in the same manner and for the same duration as the procedures would be applied to children without disabilities but also must provide the appropriate services as required in paragraph J.3, below.

d. **Special Circumstances.** School personnel may remove a student to an interim alternative educational setting for not more than forty-five (45) consecutive school days without regard to whether the behavior is determined to be a manifestation of the child's disability, if the child:

(1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school-sponsored activity (in this instance, federal law defines a "weapon" as having the meaning of the term "dangerous weapon" (18 USC 930), which means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than two-and-a-half (2-½) inches in length);

(2) 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-sponsored activity; or

(3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school-sponsored activity (federal law (18 USC 1365) defines the term "serious bodily injury" as meaning bodily injury that involves (a) a substantial risk of death, (b) extreme physical pain, (c) protracted and obvious disfigurement, or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty).

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3. **Special Education Services.** The services as required below may be provided in an interim alternative educational setting, at the District's expense. In the case of either an expulsion or a suspension that constitutes a change of placement, the child's pupil placement team (PPT) shall determine the interim alternative educational setting.

a. For a child with a disability who has been removed from his or her current placement for a total of ten (10) school days or less in the current school year, the District is only required during periods of removal to provide those services that would be provided to a child without disabilities who is similarly removed.

b. After a child with a disability has been removed from his or her current placement for a total of ten (10) school days in the same school year, and if the current removal is for not more than ten (10) consecutive school days (i.e., suspension) and does not constitute a change of placement, school personnel shall, in consultation with at least one of the child's teachers, determine the extent to which services are needed so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's individualized education program (IEP).

c. For a child with a disability whose removal constitutes a change of placement pursuant to paragraph J.4 or who is to be removed for more than ten (10) consecutive school days from his or her current placement (i.e., expulsion), the child's PPT shall determine the appropriate services required so that the child will:

(1) Continue to receive educational services so as to enable the child to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child's IEP; and

(2) Receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications, which are designed to address the behavior violation so that it does not recur.

4. **Removals Constituting a Change of Placement.** Regarding the removal of a child with a disability from the child's current educational placement for disciplinary purposes, a change of placement occurs if:

a. The removal is for more than ten (10) consecutive school days (i.e., expulsion); or

b. The child has been subjected to a series of removals that constitute a pattern, as determined by the school administration on a case-by-case basis, if (1) the series of removals total more than ten (10) school days in a school year, (2) the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals, and (3) because of such other factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

5. **Manifestation Determination and Required Actions.** Within ten (10) school days of any decision to change the placement of a child with a disability because of a violation of a code of student conduct, the school administration, the parent, and relevant members of the child's PPT (as determined by the parent and the school administration) must review all relevant information in the student's file, including the child's IEP, any teacher observations, and any relevant information provided by the

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parents to determine if the conduct in question: (1) was caused by, or had a direct and substantial relationship to, the child's disability; or (2) was the direct result of the school's failure to implement the child's IEP.

- a. The child's conduct must be determined to be a manifestation of the child's disability if it is determined that either of the above conditions was met.
- b. In such instances where it was determined that deficiencies exist in the school's implementation of the child's IEP, school administration shall take immediate steps to remedy those deficiencies.
- c. When the child's behavior has been determined to be a manifestation of his or her disability, the child's PPT shall:
  - (1) Either (a) conduct a functional behavioral assessment, unless the school had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the child; or (b) if a behavioral intervention plan already has been developed, review the behavioral intervention plan, and modify it, as necessary, to address the behavior; and
  - (2) Except as provided for in the special circumstances of paragraph J.2.d, return the child to the placement from which the child was removed, unless the parent/guardian and the school administration agree to a change of placement as part of the modification of the behavioral intervention plan.

6. **Parental Notification**. On the date on which the decision is made to make a removal that constitutes a change of placement of a child with a disability because of a violation of a code of student conduct, the school administration must notify the child's parents/guardians of that decision, and provide the child's parents/guardians with the District's procedural safeguards notice (which meets the requirements of the Code of Federal Regulations, Section 300.504).

7. **Appeal of Decision Regarding Placement or Manifestation Determination**. The parent of a child with a disability, who disagrees with any decision regarding placement or the manifestation determination conducted pursuant to this policy, or school administration, who believes that maintaining the current placement of the child is substantially likely to result in injury to the child or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a due process complaint.

8. **Placement during Appeals**. When an appeal has been made by either the parent or the school administration, the child must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the expulsion time period determined pursuant to this policy, whichever occurs first, unless the parent and the school administration agree otherwise.

9. **Referral to Law Enforcement Authorities**. When a child with a disability commits a crime that is reportable to the Ledyard Police Department pursuant to this policy, the school administration shall ensure that copies of the child's special education and disciplinary records are transmitted to the Ledyard Police Department, or any other law enforcement agency so contacted, for consideration. The school administration shall ensure that any such record transmittal is in accordance with the limitations of the Family Educational Rights and Privacy Act (FERPA).

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K. **Mandated Reporter Responsibility**. Nothing in this policy shall limit an employee of Ledyard Public Schools from carrying out their duty as a mandated reporter pursuant to CGS 17a-101a to report suspected child abuse or neglect.

Legal References:

Connecticut General Statutes (Public Act affecting the latest policy revision):

- 4-176e to 4-180a, 4-181a. Agency hearings and contested cases. (PA 13-279)
- 10-69. Adult education. (PA 17-237)
- 10-74j. Alternative education. (PA 15-133)
- 10-233a. Definitions.
- 10-233c. Suspension of pupils. (PA 15-96)
- 10-233d. Expulsion of pupils. (PA 17-220 and PA 17-237)
- 10-233e. Notice as to disciplinary policies and action.
- 10-233f. In-school suspension of pupils. Reassignment.
- 10-233o. Standards re alternative educational opportunities. (PA 17-220)
- 17a-101a. Report of abuse, neglect or injury of child or imminent risk of serious harm to child. Penalty for failure to report. Notification of Chief State's Attorney. (PA 15-205)
- 21a-240. Definitions. (PA 17-17)
- 21a-277. Penalty for illegal manufacture, distribution, sale, prescription, dispensing.
- 21a-278. Penalty for illegal manufacture, distribution, sale, prescription or administration by non-drug-dependent person. (PA 17-17)
- 29-35. Carrying of pistol or revolver without permit prohibited. Exceptions. (PA 16-193)
- 29-38. Weapons in vehicles. (PA 16-178)
- 53a-3. Definitions. (PA 15-211)
- 53a-217b. Possession of a weapon on school grounds: Class D felony. (PA 16-55)

18 USC 921. Definitions.

18 USC 1400 et seq. – *Individuals with Disabilities Education Act*

20 USC Ch. 70 – *Strengthening and Improvement of Elementary and Secondary Schools*

20 USC 7151 – *Gun-Free Schools Act*

21 USC 301 et seq. – *Federal Food, Drug and Cosmetic Act*

21 USC 801 et seq. – *Federal Controlled Substances Act*

Public Law 105-17 – *Individuals with Disabilities Education Act Amendments of 1997*

Public Law 107-110 – *No Child Left Behind Act of 2001*

Public Law 108-446 – *Individuals with Disabilities Education Improvement Act of 2004*

34 CFR 300.504 – Procedural safeguards notice.

34 CFR 300.507 – Filing a due process complaint.

34 CFR 300.508 – Due process complaint.

34 CFR 300.510 – Resolution process.

34 CFR 300.511 – Impartial due process hearing.

34 CFR 300.512 – Hearing Rights.

34 CFR 300.530 – Authority of school personnel.

34 CFR 300.531 – Determination of setting.

34 CFR 300.532 – Appeal.

34 CFR 300.533 – Placement during appeals.

34 CFR 300.535 – Referral to and action by law enforcement and judicial authorities.

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34 CFR 300.536 – Change of placement because of disciplinary removals.

*Kyle P. Packer PPA Jane Packer v. Thomaston Board of Education*  
State v. Hardy, 896 A.2d 755, 278 Conn 113 (2006)

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