

# OSBA Model Sample Policy

Code: JGE

Adopted:

## Expulsion\*\*

*{Required policy. ORS 339.250(2) and OAR 581-021-0070 require policies on expulsion.}*

A principal, after reviewing available information, may recommend to the superintendent that a student be expelled. Expulsion of a student shall not extend beyond one calendar year.

A student may **only** be expelled for the following circumstances:

1. When a student's conduct poses a threat to the health or safety of students or employees;
2. When other strategies to change the student's **conduct** ~~behavior~~ have been ineffective, except that expulsion may not be used to address truancy; or
3. When required by law.

The use of expulsion for discipline of a student in fifth grade or lower is limited to:

1. Nonaccidental conduct causing serious physical harm to a student or employee;
2. When a school administrator determines, based on the administrator's observations or upon a report from an employee, the student's conduct poses a **direct** threat to the health or safety of students or employees; or
3. When the expulsion is required by law.

The age of the student and the past pattern of behavior will be considered prior to imposing the expulsion.

No student may be expelled without a hearing unless the student's parents, or the student if 18 years of age, waive the right to a hearing, either in writing or by failure to appear at a scheduled hearing. ~~By waiving the right to a hearing, the student and parent agree to abide by the findings of a hearings officer.~~

The Board delegates the authority to decide on an expulsion to the superintendent.<sup>{1}</sup> The superintendent may designate another person to handle the potential expulsion, and the superintendent, a designee or another individual may act as the hearings officer. The district may contract with an individual who is not employed by the district to serve as the hearings officer. The hearings officer will not be associated with the initial actions of the building administrators. The hearings officer will conduct the hearing and make a final decision regarding the expulsion. A decision of the hearings officer may be appealed by the parent or the student if age 18 or over to the Board for review.

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<sup>{1}</sup> The Board can retain authority for all expulsions. If the Board chooses not to delegate this authority, any recommendations for expulsion from administration would come to the Board for resolution. The Board would have to meet and determine next steps for all expulsions.

If the decision of the hearings officer is appealed to the Board for review, the findings as to the facts and the hearings officer's decision will be submitted to the Board, and will be available in identical form to the Board, the student and the student's parents at the same time. At a future meeting, the Board will review the hearings officer's decision and will affirm, modify or reverse the decision.

When a recommendation for an expulsion is made and an ~~an expulsion~~ hearing is not waived, the following procedure is required:

1. Notice will be given to the student and the parent by personal service<sup>2</sup> or by certified mail<sup>3</sup> at least five days prior to the scheduled hearing. Notice shall include:

- a. The specific charge or charges and the specific facts that support the charge or charges;
- ~~b. The conduct constituting the alleged violation, including the nature of the evidence of the violation and reason for expulsion;~~
- ~~e.b.~~ A ~~recommendation for expulsion~~ statement of intent to consider the charges as reason for expulsion;
- ~~d.c.~~ The student's right to a hearing;
- ~~e.d.~~ When and where the hearing will take place; and
- ~~f.e.~~ The student may be represented by counsel or other persons ~~right to representation~~.

~~The Board may expel, or may delegate the authority to decide on an expulsion to the superintendent or superintendent's designee, who may also act as the hearings officer. The district may contract with an individual who is not employed by the district to serve as the hearings officer. The hearings officer designated by the Board will conduct the hearing and will not be associated with the initial actions of the building administrators;~~

~~2. Expulsion hearings will be conducted in private and will not be open to the general public unless the student or the student's parents request an open session;~~

~~3.2.~~ If ~~in case~~ the parent or student ~~has difficulty understanding~~ does not understand the English language ~~or has other serious communication disabilities~~, the district will provide an interpreter during the hearing ~~translator~~. All communications will be in a manner that is understandable to the parents and student;

~~4.3.~~ The student shall be permitted to have representation present at the hearing to advise and to present arguments. The representation may be an attorney, ~~and/or~~ parent ~~or other person~~. The district's attorney may be present;

~~5.4.~~ The student shall be afforded the right to present their version of the events underlying the expulsion recommendation and to introduce evidence by testimony, writings or other exhibits;

~~6.5.~~ The student shall be permitted to be present and to hear the evidence presented by the district;

~~7.6.~~ The hearings officer or the student may record the hearing;

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<sup>2</sup> The person serving the notice shall file a return of service. (OAR 581-021-0070)

<sup>3</sup> When "certified mail is given to a parent of a suspended student, the notice shall be placed in the mail at least five days before the date of the hearing." (OAR 581-021-0070)

~~8-7.~~ Strict rules of evidence shall not apply to the proceedings. However, this shall not limit the hearings officer's control of the hearing;

~~9.~~ If the Board is conducting the expulsion hearing, the Board may designate the Board chair or a third party as the hearings officer. The hearings officer will determine the facts of each case on the evidence presented at the hearing. Evidence may include the relevant past history and student education records. The hearings officer will provide to the Board, findings as to the facts, the recommended decision and whether or not the student has committed the alleged conduct. This will include the hearings officer's recommended decision on disciplinary action, if any, including the duration of any expulsion. This material will be available in identical form to the Board, the student if age 18 or over and the students' parents at the same time. Following the review by the Board of the hearings officer's recommendation, ~~t~~The Board will make the final decision regarding the expulsion;

~~If the Board has delegated authority to the superintendent [or designee] to act as the hearings officer, the superintendent may designate themselves, or a third party, as the hearings officer. The hearings officer's decision is final. However, a decision of the hearings officer may be appealed by the parent or the student if age 18 or over to the Board for review. If the decision of the hearings officer is appealed to the Board for review, the findings as to the facts and the hearings officer's decision will be submitted to the Board, and will be available in identical form to the Board, the student and the student's parents at the same time. At its next regular or special meeting the Board will review the hearings officer's decision and will affirm, modify or reverse the decision;~~

~~10-8.~~ A Board-conducted hearing or a Board review of the hearings officer's decision will be conducted in executive session unless the student or the student's parent requests a public hearing. If an executive session is held by the Board or a private hearing held by the hearings officer, the following will not be made public:

- a. The name of the minor student;
- b. The issues involved, including a student's confidential records;
- c. The discussion;
- d. The vote of Board members, which may be taken in executive session when considering an expulsion.

Prior to expulsion, ~~the district must propose alternative programs of instruction or instruction combined with counseling to a student subject to expulsion~~ for reasons other than a weapons ~~policy~~ violation, the district must notify the student and parents of alternative programs of instruction or instruction combined with counseling and document this notification. ~~The district must document to the parent of the student that proposals of alternative education programs have been made.~~

END OF POLICY

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**Legal Reference(s):**

[ORS 192.660](#)  
[ORS 332.061](#)  
[ORS 336.615 - 336.665](#)

[ORS 339.115](#)  
[ORS 339.240](#)  
[ORS 339.250](#)

[OAR 581-021-0050 - 021-0075](#)  
[House Bill 2514 \(2019\)](#)