

5612 - ASSAULT ON DISTRICT BOARD OF
EDUCATION MEMBERS OR EMPLOYEES

Any pupil who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school district employee, or Board member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to the school district, shall be immediately removed from school pursuant to N.J.S.A. 18A:37-2.1 and N.J.A.C. 6A:16-5.7.

A pupil, other than a pupil with a disability, who commits an assault as defined in N.J.S.A. 2C:12-1(a)1, shall be immediately removed from school consistent with due process procedures, pending a hearing pursuant to N.J.A.C. 6A:16-7.2 through 7.5. Nothing in N.J.S.A. 18A:37-2.1 or N.J.A.C. 6A:16-5.7 shall be construed as prohibiting the expulsion of a general education pupil. A pupil with a disability who commits an assault as defined in this Policy, shall be removed in accordance with N.J.A.C. 6A:14 and due process proceedings in accordance with N.J.A.C. 14-2.7 and 2.8.

In accordance with the provisions of N.J.S.A. 18A:37-2.1(a), said proceedings shall take place no later than thirty calendar days following the day on which the pupil is suspended. The decision of the Board shall be made within five days after the close of the hearing. Any appeal of the Board's decision shall be made to the Commissioner of Education within ninety days of the Board's decision. The provisions herein shall be construed in a manner consistent with 20 U.S.C. § 1400 et seq.

The Principal or designee shall remove, isolate, and place the pupil under the supervision of school staff until the pupil's parent or appropriate agency takes custody of the pupil. The Principal or designee will immediately report to the Superintendent the removal of the pupil and notify the pupil's parent of the removal action and the pupil's due process rights. The Principal or designee will notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

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In accordance with the provisions of N.J.S.A. 18A:37-2.1(b), whenever a teacher, administrator, Board member, other school district employee, or a labor representative on behalf of an employee makes an allegation in writing that the Board member or employee has been assaulted by a pupil, the Principal shall file a written report of the alleged assault with the Superintendent. The Superintendent shall report the alleged assault to the Board at its next regular meeting; provided that the name of the pupil who allegedly committed the assault, although it may be disclosed to the Board members, shall be kept confidential at the public Board of Education meeting.

Any person who fails to file a report of an alleged assault as required pursuant to N.J.S.A. 18A:37-2.1 and N.J.A.C. 6A:16-5.7 may be liable to disciplinary action by the Board.

The Superintendent of Schools biannually shall submit to the Commissioner of Education a report on each incident under N.J.A.C. 6A:16-5.7 utilizing the reporting system adopted by the State of New Jersey, pursuant to N.J.A.C. 6A:16-5.3(e)1.

Policy and Regulation 5612, implementing the requirements of N.J.A.C. 6A:16-5.7, shall be annually disseminated to all school staff, pupils, and parents.

N.J.S.A. 18A:37-2.1

N.J.A.C. 6A:14-2.7; 6A:14-2.8; 6A:16-5.7; 6A:16-7.2;
6A:16-7.3; 6A:16-7.4; 6A:16-7.5

Approved: December 11, 2007

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Reviewed: October 16, 2018

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A. Definitions

“Removal” means the exclusion of a pupil from the regular education program in the school in which the pupil was assigned and assigning the pupil to an alternative education school or program for at least one calendar year, following a proper hearing conducted by the Board of Education.

“Suspension” means a temporary exclusion from school, following due process procedures as outlined in State law and administrative code.

“Expulsion” means a permanent exclusion from school which denies a pupil the free, thorough, and efficient public education provided by the public school district in which the pupil resides, based on specific conditions and following required due process procedures as outlined in State law and administrative code, including a hearing conducted by the Board of Education.

“School grounds” means and includes land, portions of land, structures, buildings, and vehicles, when used for the provision of academic or extracurricular programs sponsored by the school district or community provider and structures that support these buildings, such as school district wastewater treatment facilities, generating facilities, and other central services facilities including, but not limited to, kitchens and maintenance shops. “School grounds” also includes athletic stadiums; swimming pools; any associated structures or related equipment tied to such facilities including, but not limited to, grandstands; greenhouses; garages; facilities used for non-instructional or non-educational purposes; and any structure, building, or facility used solely for school administration. School grounds also includes other facilities as defined in N.J.A.C. 6A:26-1.2, playgrounds, and recreational places owned by local municipalities, private entities, or other individuals during those times when the school district has exclusive use of a portion of such land.

B. Removal of Pupils for Assault on Board Members and Employees

1. Pursuant to the provisions of N.J.A.C. 6A:16-5.7, any pupil who commits an assault, as defined under N.J.S.A. 2C:12-1(a)1, not involving the use of a weapon or firearm, upon a teacher, administrator, other school Board employee, or Board of Education member acting in the performance of his or her duties and in a situation where his or her authority to act is apparent, or as a result of the victim's relationship to the school district, pursuant to N.J.S.A. 18A:37-2.1 shall be immediately removed from school.
2. A pupil, other than a pupil with a disability, who commits an assault pursuant to B.1. above, shall be immediately removed from school consistent with due process procedures, pending a hearing, pursuant to N.J.A.C. 6A:16-7.2 through 7.5.
 - a. Nothing in N.J.A.C. 6A:16-5.7 shall be construed as prohibiting the expulsion of a general education pupil.
3. A pupil with a disability who commits an assault pursuant to B.1. above shall be removed in accordance with N.J.A.C. 6A:14.

C. Procedures – Removal of Pupils for Assault on Board Members and Employees

1. The Principal or designee shall:
 - a. Remove a pupil as set forth in B. above;
 - b. Isolate the pupil and place him or her under the supervision of school staff until the pupil's parent or an appropriate agency takes custody of the pupil;
 - c. Immediately report to the Superintendent the removal of the pupil;
 - d. Notify the pupil's parent of the removal action and the pupil's due process rights; and
 - e. Notify the appropriate law enforcement official of a possible violation of the New Jersey Code of Criminal Justice.

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2. The Board of Education shall provide due process proceedings for all pupils in accordance with N.J.A.C. 6A:16-7.2, 7.3, 7.4, and 7.5 and for a pupil with a disability in accordance with N.J.A.C. 6A:14-2.7 and 2.8.

In Effect: December 11, 2007

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