

## **5611 REMOVAL OF STUDENTS FOR FIREARMS OFFENSES**

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#### **A. Definitions**

“Removal” means the exclusion of a student from the regular education program in the school in which the student was assigned and assigning the student 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 student the free, thorough, and efficient public education provided by the public school district in which the student 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 Students for Firearm Offenses**

1. Pursuant to the provisions of N.J.A.C. 6A:16-5.5, any student, other than a student with a disability, committing the following offenses shall be immediately removed from the school’s general education program for a period of not less than one calendar year:
  - a. Convicted or adjudicated delinquent for possession of a firearm on school grounds;

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- b. Convicted or adjudicated delinquent for committing a crime while in possession of a firearm on school grounds; and
    - c. Found knowingly in possession of a firearm on school grounds.
  2. The Superintendent may modify, on a case-by-case basis, the removal of a general education student.
    - a. The Superintendent shall develop and maintain a written record of case-by-case modifications of the removal requirement of N.J.A.C. 6A:16-5.5(b), which shall be made available to the Commissioner of Education upon request.
  3. Nothing in N.J.A.C. 6A:16-5.5 or this Policy and Regulation shall be construed to prohibit the expulsion of a general education student.
  4. The Board shall immediately remove students with disabilities for offenses involving firearms in accordance with N.J.A.C. 6A:14 and applicable Federal regulations.
- C. Procedures - Removal of Students for Firearm Offenses
  1. The Principal shall:
    - a. Remove a student as set forth in B. above;
    - b. Isolate the student and place him or her under the supervision of school staff until the student's parent or a law enforcement official takes custody of the student;
    - c. Immediately report to the Superintendent the removal of the student;
    - d. Notify the appropriate law enforcement agency of a possible violation of the New Jersey Code of Criminal Justice; and
    - e. Notify the student's parent of the following information:
      - (1) The removal action;
      - (2) The law enforcement notification;

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- (3) The change of custody, if it occurs; and
        - (4) A general education student's due process rights, as set forth in N.J.A.C. 6A:16-7.2 through 7.6, or the due process rights of a student with a disability, as set forth in N.J.A.C. 6A:14-2.7 and 2.8 and N.J.A.C. 6A:16-7.2 through 7.5.
  2. A student, other than a student with a disability, removed from the general education program pursuant N.J.A.C. 6A:16-5.5 shall be placed in an alternative education program, according to the requirements of N.J.A.C. 6A:16-9.
    - a. If placement in an alternative education program is not available, the general education student shall be provided home or other out-of-school instruction, according to N.J.A.C. 6A:16-10, until placement is available.
  3. A student with a disability removed pursuant to B. above shall receive a placement in accordance with N.J.A.C. 6A:14.
  4. A student, other than a student with a disability, removed pursuant to B. above shall be entitled to a hearing before the Board of Education in accordance with N.J.A.C. 6A:16-7.3 through 7.5.
  5. If it is found that the removed student did not commit the offenses in B. above, the student shall be immediately returned to the program from which he or she was removed.
- D. Return to General Education Program
  1. The Superintendent shall make the final determination on whether the general education student is prepared to return to the general education program, or will remain in an alternative education program, pursuant to N.J.A.C. 6A:16-9, or receive home or other out-of-school instruction, pursuant to N.J.A.C. 6A:16-10, based on the following criteria:
    - a. The nature and severity of the offense;
    - b. The Board's removal decision;
    - c. The results of relevant testing, assessment, or evaluation of the student; and

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- d. The recommendation of the Principal or Director of the alternative education program or home or other out-of-school instruction program in which the student has been placed.

### E. Exception

1. The provisions of N.J.A.C. 6A:16-5.5 shall not apply to a firearm that is lawfully stored in a locked vehicle on school grounds, or when it is for activities approved and authorized by the Board of Education, as long as the Board adopts appropriate safeguards to ensure student safety.
  - a. All students shall obtain written authorization from the Superintendent to possess a firearm stored inside a locked vehicle on school grounds or used for participation in a school-sponsored function.
    - (1) The Superintendent shall not provide authorization to a student who has been convicted or adjudicated delinquent for possession of a firearm or for a crime involving the use of a firearm.

**First Reading & Discussion:** *August 20, 2014*

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