

NEW SECTION

WAC 392-400-115 Completing academic requirements. A school district may not:

- (1) Suspend the provision of educational services to a student in response to behavioral violations; or
- (2) Administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-430 Suspensions and expulsions—General conditions and limitations. A school district may administer suspensions and expulsions for behavioral violations, subject to the following requirements:

- (1) **Parent involvement.** A school district must:
 - (a) Provide for early involvement of parents in efforts to support students in meeting behavioral expectations; and
 - (b) Must make every reasonable attempt to involve the student and parents in the resolution of behavioral violations.
- (2) **Considerations.** Before administering any suspension or expulsion, a school district must consider the student's individual circumstances and the nature and circumstances of the behavioral violation to determine whether the suspension or expulsion, and the length of the exclusion, is warranted.
- (3) ~~((Completing academic requirements. A school district may not:~~
 - ~~(a) Suspend the provision of educational services to a student in response to behavioral violations; or~~
 - ~~(b) Administer discipline in a manner that would prevent a student from completing subject, grade-level, or graduation requirements.~~

~~(4)) **Opportunity to receive educational services.** A school district must provide an opportunity for students to receive educational services during a suspension or expulsion under WAC 392-400-610.~~

~~((5)) **(4) Reporting.** The principal or designee must report all suspensions and expulsions, and the behavioral violation that led to each suspension or expulsion, to the school district superintendent or designee within twenty-four hours after the administration of the suspension or expulsion.~~

~~((6)) **(5) Reentry.** After suspending or expelling a student, a school district must:~~
 - ~~(a) Make reasonable efforts to return the student to the student's regular educational setting as soon as possible.~~
 - ~~(b) Allow the student to petition for readmission at any time.~~

~~((7)) **(6) Absences and tardiness.** A school district may not suspend or expel a student from school for absences or tardiness.~~

~~((8)) **(7) Access to school district property.** When administering a suspension or expulsion, a school district may deny a student admission to, or entry upon, real and personal property that is owned, leased, rented, or controlled by the district.~~

~~((9)) **(8) End date.**~~

(a) An expulsion or suspension of a student may not be for an indefinite period of time and must have an end date.

(b) If a school district enrolls a student in another program or course of study during a suspension or expulsion, the district may not preclude the student from returning to the student's regular educational setting following the end date of the suspension or expulsion, unless:

(i) The school district superintendent or designee grants a petition to extend a student's expulsion under WAC 392-400-480;

(ii) The student is excluded from the student's regular educational setting in accordance with WAC 392-400-810; or

(iii) The student is otherwise precluded under law from returning to the student's regular educational setting.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-440 Long-term suspensions—Additional conditions and limitations. (1) **Other forms of discipline.** Before administering a long-term suspension, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Administering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) **Limitations on long-term suspensions.** A school district may only administer a long-term suspension:

(a) For behavioral violations under RCW 28A.600.015 (6) (a) through (d); and

(b) After the school district has determined that, if the student returned to school before completing a long-term suspension:

(i) The student would pose an imminent danger to students or school personnel; or

(ii) The student would pose an imminent threat of material and substantial disruption of the educational process.

(3) **Length of exclusion.**

(a) A long-term suspension may not exceed the length of an academic term.

(b) A school district may not administer a long-term suspension beyond the school year in which the behavioral violation occurred.

(4) **Grade-level limitations.** Except for a violation of WAC 392-400-820, a school district may not administer a long-term suspension for any student in kindergarten through fourth grade.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-445 Expulsions—Additional conditions and limitations. (1) **Other forms of discipline.** Before administering an expulsion, a school district must consider one or more other forms of discipline to support the student in meeting behavioral expectations. Ad-

ministering other forms of discipline may involve the use of best practices and strategies included in the state menu for behavior developed under RCW 28A.165.035.

(2) **Limitations on expulsions.** A school district may only administer an expulsion:

(a) For behavioral violations under RCW 28A.600.015 (6) (a) through (d); and

(b) After the school district has determined that if the student returned to school before completing an expulsion, the student would pose an imminent danger to students or school personnel.

(3) **Length of exclusion.** An expulsion may not exceed the length of an academic term, unless the principal or designee petitions the school district superintendent for extension of an expulsion under WAC 392-400-480, and the petition is granted.

(4) **Grade-level limitations.** Except for violations of WAC 392-400-820, a school district may not administer an expulsion for any student in kindergarten through fourth grade.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-465 Suspensions and expulsions—Appeal. (1) **Requesting an appeal.** A student or the parents may appeal a suspension or expulsion to the school district superintendent or designee orally or in writing.

(2) **Time limit.** A school district may establish a time limit to appeal a suspension or expulsion. Appeal time limits must be no less than five school business days from the date the school district provides the written notice under WAC 392-400-455.

(3) **Short-term and in-school suspensions.**

(a) **Appeal.** The superintendent or designee must provide the student and parents the opportunity to share the student's perspective and explanation regarding the behavioral violation orally or in writing.

(b) **Appeal decision.** The superintendent or designee must deliver a written appeal decision to the student and parents in person, by mail, or by email within two school business days after receiving the appeal. The written decision must include:

(i) The decision to affirm, reverse, or modify the suspension;

(ii) The duration and conditions of the suspension, including the dates on which the suspension will begin and end;

(iii) The educational services the school district will offer to the student during the suspension under WAC 392-400-610; and

(iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request.

(4) **Long-term suspensions and expulsions.**

(a) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

(i) The time, date, and location of the appeal hearing;

(ii) The name(s) of the official(s) presiding over the appeal;

(iii) The student's and parents' rights to inspect the student's education records under (e) of this subsection;

(iv) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under (e) of this subsection;

(v) The student's and parents' rights under (f) of this subsection; and

(vi) Whether the school district will offer to hold a reengagement meeting under WAC 392-400-710 before the appeal hearing.

(b) **Reengagement.** Before the appeal hearing, the student, parents, and school district may agree to hold a reengagement meeting and develop a reengagement plan under WAC 392-400-710. The student, parents, and school district may mutually agree to postpone the appeal hearing while participating in the reengagement process.

(c) **Appeal hearing.** The school district must hold an appeal hearing within three school business days from the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student or parents.

(d) **Presiding officials.** The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to suspend or expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(e) **Evidence and witnesses.**

(i) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(ii) Upon request, the student and parents may review the student's education records. The district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(iii) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

(A) The district made a reasonable effort to produce the witness; and

(B) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(f) **Student and parent rights.** During the appeal hearing, the student and parents have the right to:

(i) Be represented by legal counsel;

(ii) Question witnesses;

(iii) Share the student's perspective and provide explanation regarding the behavioral violation; and

(iv) Introduce relevant documentary, physical, or testimonial evidence.

(g) **Recording of hearing.** The appeal hearing must be recorded by (~~manual, electronic~~) analog, digital, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(h) **Appeal decision.** The presiding official(s) must base the decision solely on the evidence presented at the hearing. The presiding

official(s) must provide a written decision to the student and parents in person, by mail, or by email within three school business days after the appeal hearing. The written decision must include:

- (i) The findings of fact;
- (ii) A determination whether:
 - (A) The student's behavior violated the school district's discipline policy adopted under WAC 392-400-110;
 - (B) The behavioral violation reasonably warrants the suspension or expulsion and the length of the suspension or expulsion; and
 - (C) The suspension or expulsion is affirmed, reversed, or modified;
- (iii) The duration and conditions of the suspension or expulsion, including the dates on which the suspension or expulsion will begin and end;
- (iv) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-470, including where and to whom to make the request; and

(v) Notice of the opportunity to participate in a reengagement meeting under WAC 392-400-710 and the contact information for the person who will coordinate scheduling of the reengagement meeting.

(5) **Language assistance.** The school district must ensure that the notice, appeal proceedings, and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

(6) **Pending appeal.** If the student or parents request an appeal under this section, the school district may temporarily continue to administer the suspension or expulsion during the appeal period subject to the following requirements:

(a) The school district may temporarily continue to administer the suspension or expulsion for no more than ten consecutive school days from the initial hearing under WAC 392-400-450 or until the appeal is decided, whichever is earlier;

(b) Any days that the student is temporarily suspended or expelled before the appeal is decided must be applied to the term of the student's suspension or expulsion and may not extend the term of the student's suspension or expulsion;

(c) If the student who is temporarily suspended or expelled returns to school before the appeal is decided under this section, the school district must provide the student an opportunity to make up assignments and tests missed during the suspension or expulsion upon the student's return.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-510 Emergency expulsions—Conditions and limitations. A school district may immediately remove a student from the student's current school placement, subject to the following requirements:

(1) **Sufficient cause.** The school district must have sufficient cause to believe that the student's presence poses:

(a) An immediate and continuing danger to other students or school personnel; or

(b) An immediate and continuing threat of material and substantial disruption of the educational process.

(2) **Determination of immediate and continuing threat of disruption.** For purposes of this section, an immediate and continuing threat of material and substantial disruption of the educational process means:

(a) The student's behavior results in an extreme disruption of the educational process that creates a substantial barrier to learning for other students across the school day; and

(b) School personnel have exhausted reasonable attempts at administering other forms of discipline to support the student in meeting behavioral expectations.

(3) **Time limit.** An emergency expulsion may not exceed ten consecutive school days. An emergency expulsion must end or be converted to another form of discipline within ten school days from the start of the emergency expulsion.

(4) **Conversion.** If a school district converts an emergency expulsion to a suspension or expulsion, the district must:

(a) Apply any days that the student was emergency expelled before the conversion to the total length of the suspension or expulsion; and

(b) Provide the student and parents notice and due process under WAC ((~~392-400-455~~)) 392-400-430 through 392-400-480.

(5) **Reporting.** All emergency expulsions, including the reason the student's presence poses an immediate and continuing danger to other students or school personnel, must be reported to the district superintendent or designee within twenty-four hours after the start of the emergency expulsion.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-525 Emergency expulsions—Appeal. (1) **Requesting an appeal.** A student or the parents may appeal an emergency expulsion to the school district superintendent or designee orally or in writing.

(2) **Time limit.** A school district may establish a time limit to appeal an emergency expulsion. Appeal time limits must be no less than three school business days from the date the school district provides the written notice of the emergency expulsion.

(3) **Notice.** Within one school business day after receiving the appeal request, unless otherwise agreed to by the student and parents, the superintendent or designee must provide the student and parents written notice in person, by mail, or by email of:

(a) The time, date, and location of the appeal hearing;

(b) The name(s) of the official(s) presiding over the appeal;

(c) The student's and parents' rights to inspect the student's education records under subsection (6) of this section;

(d) The student's and parents' rights to inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the hearing under subsection (6) of this section; and

(e) The student's and parents' rights under subsection (7) of this section.

(4) **Appeal hearing.** The school district must hold an appeal hearing as soon as reasonably possible, but no later than two school business days after the date the superintendent or designee received the appeal request, unless otherwise agreed to by the student and parents.

(5) **Presiding official(s).** The school board may designate the superintendent, a hearing officer, or a discipline appeal council, if established under WAC 392-400-475, to hear and decide appeals under this section. The presiding official(s) may not be involved in the student's behavioral violation or decision to emergency expel the student and must be knowledgeable about the rules in this chapter and of the school district's discipline policies and procedures.

(6) **Evidence and witnesses.**

(a) Upon request, the student, parents, and school district may inspect any documentary or physical evidence and a list of any witnesses that will be introduced at the appeal hearing. The school district, student, or parents must make the information available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(b) Upon request, the student and parents may review the student's education records. The school district must make the records available as soon as reasonably possible, but no later than the end of the school business day before the appeal hearing.

(c) If a witness for the school district cannot or does not appear at the appeal hearing, the presiding official(s) may excuse the witness's nonappearance if the district establishes that:

(i) The district made a reasonable effort to produce the witness; and

(ii) The witness's failure to appear is excused by fear of reprisal or another compelling reason.

(7) **Student and parent rights.** The student and parents have the right to:

(a) Be represented by legal counsel;

(b) Question witnesses;

(c) Share the student's perspective and provide explanation regarding the events that led to the emergency expulsion; and

(d) Introduce relevant documentary, physical, or testimonial evidence.

(8) **Recording of hearing.** The appeal hearing must be recorded by (~~manual, electronic~~) analog, digital, or other type of recording device. The school district must provide the recording to the student or parents upon request.

(9) **Appeal decision.** The school district must provide a written decision to the student and parents in person, by mail, or by email within one school business day after the appeal hearing. The written decision must include:

(a) The findings of fact;

(b) A determination whether the student's presence continues to pose:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(c) Whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice

and due process under WAC ((392-400-455)) 392-400-430 through 392-400-480; and

(d) Notice of the student's and parents' right to request review and reconsideration of the appeal decision under WAC 392-400-530, including where and to whom to make the request.

(10) **Language assistance.** The school district must ensure that any appeal proceedings, notices, and decisions are provided in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

AMENDATORY SECTION (Amending WSR 18-16-081, filed 7/30/18, effective 7/1/19)

WAC 392-400-530 Emergency expulsions—Review and reconsideration. (1) **Requesting review.** The student or parents may request that the school board or discipline appeal council, if established under WAC 392-400-475, review and reconsider the school district's appeal decision under WAC 392-400-525. The student or parents may request the review orally or in writing.

(2) **Time limit.** A school district may establish a time limit for parents and students to request a review under this section. The time limit must be no less than five school business days from the date the school district provided the written appeal decision to the student and parents under WAC 392-400-525.

(3) **Review procedure.**

(a) In reviewing the school district's decision, the school board or discipline appeal council must consider all documentary and physical evidence related to the events that led to the emergency expulsion, any records from the appeal under WAC 392-400-525, relevant state law, and the district's discipline policy adopted under WAC 392-400-110.

(b) The school board or discipline appeal council may request to meet with the student or parents, the principal, witnesses, or school personnel to hear further arguments and gather additional information.

(c) The decision of the school board or discipline appeal council must be made only by board or council members who were not involved in the events that led to the emergency expulsion, the decision to emergency expel the student, or the appeal decision under WAC 392-400-525. If the discipline appeal council presided over the appeal under WAC 392-400-525, the decision must be made by the school board.

(4) **Decision.** The school board or discipline appeal council must provide a written decision to the student and parents in person, by mail, or by email within five school business days after receiving the request for review and reconsideration. The written decision must identify:

(a) Whether the school board or discipline appeal council affirms or reverses the school district's decision that the student's presence posed:

(i) An immediate and continuing danger to students or school personnel; or

(ii) An immediate and continuing threat of material and substantial disruption of the educational process.

(b) If the emergency expulsion has not yet ended or been converted, whether the school district will end the emergency expulsion or convert the emergency expulsion to a suspension or expulsion. If the school district converts the emergency expulsion to a suspension or expulsion, the district must provide the student and parents notice and due process under WAC ((392-400-455)) 392-400-430 through 392-400-480.

(5) **Language assistance.** The school district must ensure that any review proceedings and decision are in a language the student and parents understand, which may require language assistance for students and parents with limited-English proficiency under Title VI of the Civil Rights Act of 1964.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-400-023	Definitions.
WAC 392-400-225	School district rules defining misconduct—Distribution of rules.
WAC 392-400-226	School district rules defining harassment, intimidation and bullying prevention policies and procedures—Distribution of rules.
WAC 392-400-230	Persons authorized to impose discipline, suspension, or expulsion upon students.
WAC 392-400-233	Absences, tardiness, and school meals.
WAC 392-400-235	Discipline—Conditions and limitations.
WAC 392-400-240	Discipline—Grievance procedure.
WAC 392-400-245	Short-term suspension—Conditions and limitations.
WAC 392-400-250	Short-term suspension—Prior conference required—Notice to parent.
WAC 392-400-255	Short-term suspension—Grievance procedure.
WAC 392-400-260	Long-term suspension—Conditions and limitations.
WAC 392-400-265	Long-term suspension—Notice of hearing—Waiver of hearing.
WAC 392-400-270	Long-term suspension—Prehearing and hearing process.
WAC 392-400-275	Expulsion—Conditions and limitations.
WAC 392-400-280	Expulsion—Notice of hearing—Waiver of hearing.
WAC 392-400-285	Expulsion—Prehearing and hearing process.

WAC 392-400-295 Emergency expulsion—Limitations.

WAC 392-400-300 Emergency expulsion—Notice of hearing—
Waiver of hearing right.

WAC 392-400-305 Emergency expulsion—Prehearing and
hearing process.

WAC 392-400-310 Appeals—Long-term suspension and
expulsion.

WAC 392-400-315 Appeals—Hearing before school board or
disciplinary appeal council—Procedures.

WAC 392-400-317 Appeals—Discipline and short-term
suspension grievances.

WAC 392-400-320 School board or disciplinary appeal
council decisions.

WAC 392-400-410 Appeal for extension of an expulsion.