

5105 POLICY - Student Conduct and Policy on Expulsion Re: Dangerous Weapons, Criminal Sexual Conduct, Arson and Employee Physical Assaults

Students who possess a dangerous weapon in a weapon free school zone, or students who commit arson or criminal sexual conduct in a school building or on school grounds, or students in grade 6 and above who commit a physical assault at school against a school employee, volunteer, or contractor shall be permanently expelled from the Utica Community Schools, and referred to the local police agency and the appropriate county department of social services or community mental health agency. The parent(s), legal guardian(s), and/or the student shall also be notified of the referral.

A “dangerous weapon” means a firearm, dagger, dirk, stiletto, knife with a blade over three (3) inches in length, or pocket knife opened by a mechanical device; an iron bar or brass knuckles.

A “firearm” means 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; any destructive device or any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four (4) ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device; or, any other weapon as set forth in 18 USC §921.

A “physical assault” means intentionally causing or attempting to cause physical harm to another through force or violence.

“Arson” means conduct which otherwise would constitute a felony violation of Sections 750.71 through 750.80 of the Michigan Compiled Laws.

“Criminal sexual conduct” means conduct which otherwise would constitute a violation of Sections 750.520b through 750.520e, and Section 750.520g of the Michigan Compiled Laws.

A student who possesses a weapon that constitutes a dangerous weapon on school property must be expelled unless he/she can establish one of the following in a clear and convincing manner:

- I. The object or instrument possessed by the pupil was not possessed for use as a weapon, or for direct or indirect delivery to another person for use as a weapon.
- II. The weapon was not knowingly possessed by the pupil.
- III. The pupil did not know or have reason to know that the object or instrument possessed by the pupil constituted a dangerous weapon.
- IV. The weapon was possessed by the pupil at the suggestion, direction, request or with express permission of school or police authorities.

Students subject to expulsion shall have his/her situation reviewed by the Superintendent on a case-by-case basis.

Effective August 1, 2017, pursuant to Section 1311(3) of the revised school code, there is a rebuttable presumptive that expulsion under Section 1311(2) for possession of a weapon is not justified if both of the following are met:

- I. The Board or designee determines in writing that at least one of the factors under I-IV above have been established by clear and convincing manner; and
- II. The student has no history of suspension or expulsion.

The above described expulsions shall be considered Board of Education expulsions as defined in Policy 5100 Section VI and will be subject to the procedures set forth in Policy 5100 Section VI for such expulsions.

Effective August 1, 2017, pursuant to section 1310d, before suspending or expelling a student under Section 1310 (physical assault against another pupil); 1311(1) (gross misdemeanor or persistent disobedience); 1311(2) (possession of a dangerous weapon except for a firearm); and 1311(a) (physical assault by a student in grade 6 or above against a school employee, volunteer or contractor), the Board, Superintendent or designee shall consider each of the following factors:

- (a) The student's age;
- (b) The student's disciplinary history;
- (c) Whether the student is a student with a disability;
- (d) The seriousness of the violation or behavior committed by the student;
- (e) Whether the violation or behavior committed by the student threatened the safety of any student or staff member;
- (f) Whether restorative practices will be used to address the violation or behavior committed by the student; and
- (g) Whether a lesser intervention would properly address the violation or behavior committed by the student.

This provision does not apply to a student who is being expelled under Section 1311(2) for possessing a firearm in a weapon free school zone. Reference: Policy 5100.

If the Board of Education takes action to permanently expel a student, the expulsion will be retroactive to the first day of suspension following the incident that resulted in the recommendation for expulsion.

Students permanently expelled for reasons covered in this policy may seek reinstatement. Such reinstatement is not a matter of right, but is discretionary with the Board of Education. A Petition for Reinstatement must be completed in writing to the Board of Education through the Superintendent or designee. The final decision to reinstate is made by the Board of Education.

- I. An individual who was in grade five or below at the time of permanent expulsion and who has been expelled for possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 90 school days after the date of expulsion.
- II. An individual who was in grade five or below at the time of permanent expulsion and who has been expelled for a reason defined in Section 1311(2) other than possessing a firearm or threatening another person with a dangerous weapon shall not be reinstated before the expiration of 10 school days after the date of expulsion.

- III. An individual who was in grade six or above at the time of permanent expulsion for an offense covered by this policy shall not be reinstated before the expiration of 180 school days after the date of expulsion.
- IV. The time limits and procedures for filing a petition for reinstatement and reinstatement shall be governed by the provisions of Sections 1311(6) and 1311a(5) of the Revised School Code of the State of Michigan.

Once action has been taken by the Board of Education on a Petition for Reinstatement, a petition regarding the same student may not be submitted again until 90 school days have passed.

Students who are determined to be eligible for special education programs and services shall have this policy applied in a manner consistent with the rights secured under federal and state law. The time line set forth in this policy may be adjusted to accommodate special education requirements.

*Legal References: The Gun-Free School Act of 1994 as amended by PL 103-382  
Public Act 250 of 1995 of the State of Michigan  
MCL §380.13111  
MCL §380.1311a  
Public Act 230 of 2000 of the State of Michigan*

Related Policies: Board of Education Policy 5100, Student Conduct and Policies on Suspension and Expulsion

Policy

Board of Education Utica Community Schools

Adopted: 1995

Revised: 2/14/96

Revised: 6/10/96

Revised: 5/11/98

Revised: 10/11/99

Revised: 9/11/00

Revised: 11/25/02

Re-Adopted: 6/11/07

Revised: 8/28/17

## 5105 RULES AND REGULATIONS - Reinstatement Following Permanent Expulsion

The Petition for Reinstatement form shall be provided by the Superintendent's office.

The Petition may be filed by a parent, legal guardian or the expelled individual if he/she is at least 18 years of age or is an emancipated minor.

A petition for reinstatement to the Utica Community Schools may be filed:

- V. No sooner than 60 school days following the date of expulsion for an individual who was in grade five or below at the time of the expulsion and, who was expelled for possessing a firearm or threatening another person with a dangerous weapon;
- VI. An individual, who was in grade five or below at the time of the expulsion and, who was expelled for a reason other than possessing a firearm or threatening another person with a dangerous weapon at any time;
- VII. No sooner than 150 school days after the date of expulsion, for an individual who was in grade six or above at the time of the expulsion.

The Board of Education shall annually designate the Petition Review Committee (PRC) composed

- of:
- 2 - Board of Education members
  - 1 - School Administrator
  - 1 - Teacher
  - 1 - Parent of a student in the District

Alternates should also be named in case a committee member cannot attend a meeting or there may be an alleged conflict of interest on the part of a PRC member.

The members of the PRC to review the petition must be identified within 10 school days of the filing of the petition for reinstatement.

Within 10 school days of the appointment of the PRC members, the PRC shall review the petition.

The petitioner may withdraw a Petition for Reinstatement by doing so in writing, up until the Petition Review Committee meets to make a recommendation regarding the reinstatement. Once the Petition Review Committee has met and makes a recommendation to the Board of Education, the Board must act on the recommendation. The PRC's recommendation shall be for either:

- I. Unconditional reinstatement of the individual
- II. Conditional reinstatement of the individual
- III. Against reinstatement of the individual

The PRC's recommendation shall be accompanied by an explanation of the reasons for the recommendation and of any recommended conditions for reinstatement based on the factors listed below.

The PRC will review the petition, any supporting information provided by the petitioner and information provided by the school district. Their decision will be based on the following factors:

- VIII. The extent to which reinstatement of the individual would create a risk of harm to students or school personnel,
- IX. The extent to which reinstatement of the individual would create a risk ~~to~~ of school district liability or individual liability for the Board of Education or school district personnel,
- X. The age and maturity of the individual,
- XI. The individual's school record before the incident that resulted in expulsion,
- XII. The Individual's attitude concerning the incident that resulted in expulsion,
- XIII. The individual's behavior since the expulsion and the prospects for remediation of the individual,
- XIV. If the reinstatement petition was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the individual is reinstated including, but not limited to, receptiveness toward possible conditions placed on reinstatement.

The PRC shall submit the recommendation to the Board of Education. The Board shall take action at the next regularly scheduled Board of Education meeting.

The Board shall either:

- XV. Unconditionally reinstate the individual
- XVI. Conditionally reinstate the individual
- XVII. Deny reinstatement of the individual

Board action regarding this agenda item must be conducted in open session. The decision of the Board is final.

*Legal Reference: Public Act 250 of 1995 of the State of Michigan  
MASB Volume 6, Number 4, December, 1994*

Rules and Regulations  
Adopted: 6/10/96  
Revised: 3/98  
Revised: 10/99  
Revised: 6/11/07

Superintendent of Schools

Revised 8/28/17

5105 FORM 1 - Petition for Reinstatement

Name of Expelled Individual \_\_\_\_\_ Date \_\_\_\_\_

Date of Birth \_\_\_\_\_

Address \_\_\_\_\_ Telephone \_\_\_\_\_

Name of Parent (or Legal Guardian) \_\_\_\_\_

Address and Telephone (if different from above) \_\_\_\_\_

\_\_\_\_\_

**At the time of expulsion:**

What school was the individual attending \_\_\_\_\_ Grade \_\_\_\_\_

Date of expulsion \_\_\_\_\_

Reason for expulsion \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**School/Program attended since expulsion:**

School \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_

Contact Person \_\_\_\_\_

**Each of the factors listed below must be considered by the review committee in formulating a recommendation to the Board of Education. Please feel free to share with the review committee any information you may have supporting the above named individual in relation to these factors. They are:**

1. The extent to which reinstatement of the above named individual would create a risk of harm to pupils or school personnel.
2. The extent to which reinstatement of the above named individual would create a risk of school district or individual liability for the Board of Education or school District personnel.
3. The age and maturity of the above named individual.
4. The above named individual's school record before the incident that resulted in expulsion.
5. The above named individual's attitude concerning the incident that resulted in expulsion.
6. The above named individual's behavior since the expulsion and the prospects for remediation of the individual.
7. If the petition for reinstatement was filed by a parent or legal guardian, the degree of cooperation and support that has been provided by the parent or legal guardian and that can be expected if the above named individual is reinstated.



**If the Board of Education reinstates the above named individual in a conditional reinstatement, would you agree to specific conditions which may include, but are not limited to:**

A behavior contract, which may involve the individual, parent or legal guardian, and an outside agency?

Participation in or completion of an anger management program or appropriate counseling?

Periodic progress reviews?

Specific consequences for failure to abide by a condition?

\_\_\_ YES \_\_\_ NO

A parent or legal guardian or the individual is at least age 18 or is an emancipated minor, may include proposed conditions in a Petition for Reinstatement. If you have any proposals, please list them.

Please feel free to attach any other information which may support your Petition for Reinstatement of the above named individual.

I certify that, to the best of my knowledge, the above and enclosed information is accurate and correct.

\_\_\_\_\_

Petitioner

\_\_\_\_\_

Date

Rules and Regulations  
Adopted: 6/10/96  
Revised: 3/98  
Revised: 10/99  
Re-Adopted: 6/11/07  
Revised 8/28/17

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