

Readopt with amendment Ed 317, effective 6-15-13 (Document #10361-B), to read as follows:

**PART Ed 317 STANDARDS AND PROCEDURES FOR SUSPENSION AND EXPULSION OF PUPILS
INCLUDING PROCEDURES ASSURING DUE PROCESS**

Ed 317.01 Purpose.

(a) These rules provide the minimum requirements to assure due process and statewide uniformity in the enforcement of RSA 193:13 and RSA 193-D, relative to disciplinary action of pupils.

(b) These rules provide a standard that school boards or chartered public school board of trustees shall use in adopting and implementing local policy(ies) relative to pupil conduct and disciplinary procedures.

(c) Any suspension or expulsion of a child with a disability as defined in Ed 1102.01(t) shall be in accordance with Ed 1124.01.

Ed 317.02 Definitions.

(a) "Expulsion" means the denial of a pupil's attendance following a suspension at school for any of the reasons listed in RSA 193:13, I, II, and IV.

(b) "Firearm" means "firearm" as defined in section 921 of Title 18 of the US Code.

(c) "Dangerous weapons" means weapons under RSA 159.

(d) "Pupil" means a student in attendance at a school during the school day or during any school sponsored function.

(g) "Safe school zone" means "safe school zone" as defined in RSA 193-D:1, II.

(h) "School day" means the measurement of time used to determine the length of a pupil's suspension and includes all portions of a school instructional day under Ed 306.18 in addition to extracurricular activities occurring on or between those days included during a period of suspension or expulsion.

(i) "Superintendent" means the individual who provides services as described in RSA 194-C:4, or a representative designated in writing as authorized under RSA 193:13, I.

(j) "Suspension" means the denial of a pupil's attendance at school for any of the reasons listed in RSA 193:13, I, and II.

Ed 317.03 Policies and Procedures for Suspension and Expulsion.

(a) School boards and chartered public schools shall establish policies on school discipline as required by RSA 193:13, XI.

(b) Prior to the imposition of any suspension or expulsion, each school board or board of trustees of a chartered public school shall adopt a policy under RSA 189:15 which prescribes the matter that pupils and the parents or guardians of pupils shall receive written notice of the content of RSA 193:13 and any local district policy pertaining to pupils. At minimum, the school district or chartered public school shall make its policy available as outlined in RSA 193:13, XII.

(c) A school board or board of trustees that expels a pupil under RSA 193:13, II or IV, shall set forth in writing the act leading to the expulsion and the board's consideration of each of the factors for expulsion as set forth in RSA 193:13, III-a, and shall provide a procedure for review as allowed under RSA 193:13, III-b.

(d) If a pupil is subject to expulsion and a firearm is involved, the superintendent or chartered school director shall contact local law enforcement officials.

(e) If a pupil brings or possesses a firearm in a safe school zone without written authorization from the superintendent or chartered school director, the following shall apply:

(1) The superintendent or chartered public school director shall suspend the pupil for a period not to exceed 10 school days, pending a hearing by the school board or board of trustees; and

(2) The school board or board of trustees shall hold a hearing within 10 days to determine whether the pupil was in violation of RSA 193:13, IV and therefore is subject to expulsion.

Ed 317.04 Disciplinary Procedures.

(a) There shall be the following levels of discipline available to school officials enforcing RSA 193:13 relative to the suspension and expulsion of pupils:

(1) A short-term suspension pursuant to RSA 193:13, I (a) for a period not to exceed 10 school days;

(2) A long-term suspension pursuant to RSA 193:13, I (b)-(c) for more than 10 days;

(3) An expulsion by the school board or board of trustees for a period determined in writing by the school board or board of trustees under RSA 193:13, II; and

(4) An expulsion by the school board or board of trustees for a period of not less than 12 months under RSA 193:13, IV.

(b) The superintendent, chartered public school director, or their designee shall be authorized to impose a short-term suspension.

(c) Following a hearing, the school board, board of trustees, or their designee shall be authorized to extend the suspension of a pupil up to 10 additional consecutive days after the imposition of a short-term suspension as provided by RSA 193:13, I (b).

(d) If the school board or board of trustees has satisfied the requirements of Ed 317.03(a) and has complied with the local policy developed pursuant to Ed 317.03, a pupil appealing a local decision to the state board shall not be allowed to claim lack of knowledge of the state law requiring expulsion for bringing or possessing a firearm or other dangerous weapon as defined in these rules.

(e) Due process for a short-term suspension shall include, at a minimum, the following procedures:

(1) The superintendent, chartered public school director, or designee shall schedule a meeting with the pupil and inform the pupil of the meeting's purpose, including the possibility of a short-term suspension;

(2) Oral or written notice of the charges and an explanation of the evidence against the pupil, which may be provided at or before this meeting;

(3) An opportunity for the pupil to present his or her side of the story; and

(4) A written statement to the pupil and at least one of the pupil's parents or guardian explaining any disciplinary action taken against the pupil.

(f) Due process in disciplinary proceedings for the long-term suspension of a pupil shall include the following:

- (1) A hearing held in accordance with the procedures set forth in (j) below;
- (2) Written communication to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, prior to the hearing, of the charges and an explanation of the evidence against the pupil;
- (3) A written decision which includes the factual basis for the conclusion that the pupil should be suspended;
- (4) If the hearing was conducted by the school board's designee, the decision may be appealed to the local school board under RSA 193:13, I; and
- (5) If the hearing was conducted by the school board, the decision may be appealed to the state board.

(g) In an expulsion by the school board or board of trustees, due process shall include the procedures outlined in (f) above, and the following minimal requirements:

- (1) A formal hearing shall be held before any expulsion in accordance with the procedures set forth in (j) below;
- (2) Such hearing may be held either before or after the short-term or long-term suspension has expired and pending the expulsion hearing;
- (3) If the hearing is held after the expiration of a short-term or long-term suspension, the pupil shall be entitled to return to school after the short-term suspension has expired and pending the expulsion hearing, unless the pupil is still serving a long-term suspension;
- (4) The school board or board of trustees shall provide written notice to the pupil and at least one of the pupil's parents or guardian, delivered in person or by mail to the pupil's last known address, of the date, time, and place for a hearing before the school board; and
- (5) The notice shall:
 - a. Include a statement of the charges and the nature of the evidence against the pupil;
 - b. Include the superintendent's or chartered public school director's recommendation for school board or board of trustees' action and a description of the process used by the superintendent or chartered public school director to reach a recommendation; and
 - c. Be delivered to the pupil and at least one of the pupil's parents or guardian at least 5 days prior to the hearing.

(h) The decision of the school board or board of trustees shall:

- (1) Be based on a dispassionate and fair consideration of substantial evidence that the accused pupil committed the act for which expulsion is imposed and that such acts are a proper reason for expulsion; and
- (2) State whether the pupil is expelled and the length of the expulsion.

- (i) If the decision is to expel the pupil, the decision shall make explicit the following:
 - (1) The factual basis for the decision including the specific statutory reference prohibiting that act as listed in RSA 193:13, II;
 - (2) The board’s consideration of each of the factors for expulsion as set forth in RSA 193:13, III;
 - (3) That the expulsion runs until the school board or board of trustees later reviews it and restores the pupil’s permission to attend school;
 - (4) Any action the pupil may take to be restored by the school board; and
 - (5) That the pupil has the right to appeal the decision to the state board.
- (j) The following procedures shall apply to hearings on long-term suspensions and expulsions:
 - (1) The pupil, together with a parent or guardian, may waive the right to a hearing and admit to the charges made by the superintendent or chartered public school director;
 - (2) If the pupil is 18 years of age or older, the concurrence of a parent or guardian shall be unnecessary unless the pupil is subject to a guardianship that would prevent the pupil from waiving the right to a hearing;
 - (3) Formal rules of evidence shall not be applicable, however, school officials shall present evidence in support of the charge(s) and the accused pupil or the parent or guardian shall have an opportunity to present any defense or reply;
 - (4) The hearing shall be either public or private and the choice shall be that of the pupil or parent or guardian;
 - (5) During the hearing, the pupil, parent, guardian, or counsel representing the pupil shall have the right to examine any and all witnesses; and
 - (6) A continuance of a hearing on the request of a parent or pupil over the age of 18, without the consent of the superintendent or chartered public school director, shall be conditioned on the pupil’s continued exclusion from attendance.
- (k) Notwithstanding (a) – (f) above, pupils whose presence poses a continuing danger to person or property, or an ongoing threat of disrupting the academic process, may be immediately removed from school at the discretion of the superintendent, chartered public school director, or their designee. In such cases, the necessary due process outlined in (e) above shall follow as soon as practicable.
- (l) Notwithstanding any other deadline in Ed 200, all appeals to the state board from school board decisions under (f) and (g) shall be filed within 20 calendar days of receipt of the written decision of the school board or board of trustees and shall be in accordance with RSA 541-A and Ed 200.

Ed 317.05 Reporting Procedures for Acts of Theft, Violence, or Destruction.

- (a) Pursuant to RSA 193-D:4, each public, chartered public, or nonpublic school employee who witnesses or has information from the victim of an act of theft, destruction, or violence in a safe school zone shall provide a written report to the principal. The principal shall file the report with local law enforcement within 48 hours of the incident.
- (b) The report shall contain the following information:

- (1) School name;
- (2) School address;
- (3) School telephone number;
- (4) Name of school principal;
- (5) Date of incident involving an act of theft, destruction, or violence, or the possession of a firearm;
- (6) Time of incident in (5) above;
- (7) Location of incident in (5) above;
- (8) Alleged offense;
- (9) Description of incident;
- (10) Name of suspect, if known;
- (11) Grade in school of suspect, if applicable;
- (12) Address of suspect, if known;
- (13) Name of victim or witness;
- (14) Grade in school of victim or witness, if applicable;
- (15) Address of victim or witness, if known;
- (16) Name of employee reporting incident;
- (17) Date report was completed by employee; and
- (18) Date report was filed with local law enforcement authority by school principal.

(c) When reporting the crime to the appropriate authorities, a public, chartered public, or nonpublic school shall ensure that copies of the relevant portions of the special education and disciplinary records of the child are made available in a manner that protects the child's privacy.

(d) Each school board for a public school, board of trustees for a chartered public school, or the governing body of a nonpublic school shall develop a policy to address violations of RSA 193-D to include the possible sanctions and penalties for said violations.

Ed 317.06 Reporting Procedures for Acts of Violence Against School Employees, Volunteers, or Visitors.

(a) Each public, chartered public, or nonpublic school employee who witnesses an act of violence against school employees, volunteers, or visitors shall provide a written report to the principal within 48 hours of the incident.

(b) The principal shall provide the report required by (a) above to the department within 10 school days of receipt of the initial report from the school employee.

(c) The report shall contain the following information:

- (1) School name;
- (2) School address;
- (3) School telephone number;
- (4) Name of school principal or director;
- (5) Date of incident involving an act of violence against school employees, volunteers, or visitors;
- (6) Time of incident in (5) above;
- (7) Location of incident in (5) above;
- (8) Alleged act of violence against school employee, volunteer, or visitor;
- (9) Description of incident;
- (10) Name of suspect;
- (11) Grade in school of suspect, if applicable;
- (12) Address of suspect, if known;
- (13) Name of victim(s);
- (14) Address of victim(s), if known;
- (15) Name of employee reporting the incident; and
- (16) Date report was completed by the employee.

(c) Each school board for a public school, board of trustees of a chartered public school, or the governing body of a nonpublic school, shall develop a policy to address violations of RSA 193-D to include the possible sanctions and penalties for said violations.

Ed 317.07 Reporting Procedures for School Safety Data Collection.

(a) Public schools shall complete and file the information required under the Gun Free School Act of 1994, found in the School Safety Data Collection Survey, with the commissioner on or before June 30 of each year. The superintendent or chartered public school director shall certify the School Safety Data Collection online through the ESS portal at <https://my.doe.nh.gov/myNHDOE/Login/Login.aspx>.

(b) The following information shall be collected through the ESS portal:

- (1) Name of school district;
- (2) School name;
- (3) Pupil's grade in school;
- (4) Type of firearm:
 - a. Handgun;

- b. Rifle or shotgun; or
 - c. Other firearm; and
 - d. Whether there was more than one type of weapon or firearm;
- (5) Number of expulsions modified to less than 12 months;
- (6) Number of modifications of expulsions for pupils who are not identified as a child with a disability;
- (7) Number of expulsions which resulted in a referral to an alternative school or program;
- (8) Name of reporting official; and
- (9) Signature and date.

APPENDIX

Rule	State Statute or Federal Regulation Implemented
Ed 317.01	RSA 193-D; RSA 193:13
Ed 317.01(c)	34 CFR 300.530 - 34 CFR 300.536
Ed 317.02	RSA 193-D
Ed 317.03	RSA 189:15; RSA 193:13
Ed 317.04	RSA 193:13, I; RSA 193:13, IV
Ed 317.05-Ed 317.06	RSA 193-D:4; RSA 193-D:7, I;
Ed 317.07	20 U.S. Code § 7961; RSA 193-D:4