

CHAPTER 127

PROCEEDINGS, PROHIBITIONS, POLICIES

127.20	Violations; penalties.	127.38	Policies to be established.
127.23	State officials to be disinterested; penalty.	127.40	Definitions.
127.27	Definitions.	127.41	Discipline and removal of students from class.
127.282	Expulsion for possession of firearm.	127.411	School site mediation board.
127.31	Exclusion and expulsion procedures.	127.412	Ombudsperson service.
127.311	Good faith exception.	127.413	Notification.
127.32	Appeal.	127.42	Review of policy.
127.33	Judicial review.	127.455	Model policy.
127.36	Report to commissioner of children, families, and learning.	127.47	School locker policy.
		127.48	Policy to refer firearms possessor.

127.20 VIOLATIONS; PENALTIES.

Any person who fails or refuses to provide for instruction of a child of whom the person has legal custody, and who is required by section 120.101, subdivision 5, to receive instruction, when notified so to do by a truant officer or other official, or any person who induces or attempts to induce any such child unlawfully to be absent from school, or who knowingly harbors or employs, while school is in session, any child unlawfully absent from school, shall be guilty of a misdemeanor. Any fines collected shall be paid into the county treasury for the benefit of the school district in which the offense is committed.

History: 1995 c 226 art 3 s 8

127.23 STATE OFFICIALS TO BE DISINTERESTED; PENALTY.

If the commissioner of children, families, and learning, an assistant or any employee connected with the commissioner's office, or any member of any school board shall accept or receive any money, gift or any property, or favor from any person, firm, or corporation offering for sale any textbooks, or any agent thereof, or from any person in any way interested in the sale of textbooks, the person accepting or receiving it shall, upon conviction, be punished by a fine not exceeding \$700, or by imprisonment in the county jail for not more than six months, or both by such fine and imprisonment.

History: 1Sp1995 c 3 art 16 s 13

127.27 DEFINITIONS.

[For text of subs 1 to 9, see M.S.1994]

Subd. 10. "Suspension" means an action taken by the school administration, under rules promulgated by the school board, prohibiting a pupil from attending school for a period of no more than ten school days. If a suspension is longer than five days, the suspending administrator must provide the superintendent with a reason for the longer suspension. This definition does not apply to dismissal from school for one school day or less. Each suspension action shall include a readmission plan. The readmission plan shall include, where appropriate, a provision for alternative programs to be implemented upon readmission. Suspension may not be consecutively imposed against the same pupil for the same course of conduct, or incident of misconduct, except where the pupil will create an immediate and substantial danger to surrounding persons or property. In no event shall suspension exceed 15 school days, provided that an alternative program shall be implemented to the extent that suspension exceeds five days.

History: 1995 c 226 art 3 s 9

127.282 EXPULSION FOR POSSESSION OF FIREARM.

(a) Notwithstanding the time limitation in section 127.27, subdivision 5, a school board must expel for a period of at least one year a pupil who is determined to have brought a firearm to school except the board may modify this expulsion requirement for a pupil on a case-

by-case basis. For the purposes of this section, firearm is as defined in United States Code, title 18, section 921.

(b) Notwithstanding chapter 13, a student's expulsion or withdrawal or transfer from a school after an expulsion action is initiated against the student for a weapons violation under paragraph (a) may be disclosed by the school district initiating the expulsion proceeding. Unless the information is otherwise public, the disclosure may be made only to another school district in connection with the possible admission of the student to the other district.

History: 1995 c 226 art 3 s 10

127.31 EXCLUSION AND EXPULSION PROCEDURES.

[For text of subs 1 to 13, see M.S.1994]

Subd. 14. The decision by the school board shall be based upon the recommendation of the hearing officer or school board member or committee and shall be rendered at a special meeting within five days after receipt of the recommendation. The decision shall be in writing and the controlling facts found upon which the decision is made shall be stated in sufficient detail to apprise the parties and the commissioner of children, families, and learning of the basis and reason for the decision.

[For text of subd 15, see M.S.1994]

History: 1Sp1995 c 3 art 16 s 13

127.311 GOOD FAITH EXCEPTION.

A violation of the technical provisions of the pupil fair dismissal act of 1974, made in good faith, is not a defense to a disciplinary procedure under the act unless the pupil can demonstrate actual prejudice as a result of the violation.

History: 1Sp1995 c 3 art 9 s 30

127.32 APPEAL.

An exclusion or expulsion decision made pursuant to sections 127.26 to 127.39 may be appealed to the commissioner of children, families, and learning. The commissioner or the commissioner's representative shall make a final decision based upon a record of evidence presented at the hearing. Such ruling shall be binding upon the parties, subject to judicial review as provided in section 127.33.

History: 1Sp1995 c 3 art 16 s 13

127.33 JUDICIAL REVIEW.

The decision of the commissioner of children, families, and learning made pursuant to sections 127.26 to 127.39 shall be subject to judicial review in accordance with chapter 14.

History: 1Sp1995 c 3 art 16 s 13

127.36 REPORT TO COMMISSIONER OF CHILDREN, FAMILIES, AND LEARNING.

The school board shall report each exclusion or expulsion within 30 days of the effective date of the action to the commissioner of children, families, and learning. This report shall include a statement of alternative programs of education accorded the pupil prior to the commencement of exclusion or expulsion proceedings.

History: 1Sp1995 c 3 art 16 s 13

127.38 POLICIES TO BE ESTABLISHED.

(a) The commissioner of children, families, and learning shall promulgate guidelines to assist each school board. Each school board shall establish uniform criteria for dismissal and adopt policies and rules in writing to effectuate the purposes of sections 127.26 to 127.39. The policies will emphasize the prevention of dismissal action through early detection of

problems. The policies shall recognize the continuing responsibility of the school for the education of the pupil during the dismissal period and help prepare the pupil for readmission.

(b) The commissioner shall actively encourage and assist school districts to cooperatively establish alternative learning programs that offer instruction to pupils who are dismissed from school for willfully engaging in dangerous, disruptive, or violent behavior, including for possessing a firearm in a school zone.

History: *1Sp1995 c 3 art 16 s 13*

127.40 DEFINITIONS.

Subdivision 1. Removal from class. "Removal from class" and "removal" mean any actions taken by a teacher, principal, or other school district employee to prohibit a pupil from attending a class or activity period for a period of time not to exceed five days, pursuant to procedures established in the school district discipline policy adopted by the school board pursuant to section 127.41.

Subd. 2. Class period. "Class period" or "activity period" means a period of time as defined in the district's written discipline policy.

Subd. 3. School site mediation board. "School site mediation board" means a board representative of parents of students in the building, staff, and students that shall have the responsibilities as defined in section 127.411. The principal or other person having general control and supervision of the school, shall serve as an ex officio member of the board.

Subd. 4. School-based ombudsperson. "School-based ombudsperson" means an administrator, a teacher, a parent, or a student representative who shall have the responsibilities as outlined in section 127.412.

History: *1Sp1995 c 3 art 9 s 31*

127.41 DISCIPLINE AND REMOVAL OF STUDENTS FROM CLASS.

Subdivision 1. Required policy. Each school board shall adopt a written districtwide school discipline policy which shall include written rules of conduct for students, minimum consequences for violations of the rules, and grounds and procedures for removal of a student from class. The policy shall be developed with the participation of administrators, teachers, employees, pupils, parents, community members, and such other individuals or organizations as the board determines appropriate. A school site council may adopt additional provisions to the policy subject to the approval of the school board.

Subd. 2. Grounds for removal from class. The policy shall establish the various grounds for which a student may be removed from a class in the district for a period of time pursuant to the procedures specified in the policy. The grounds in the policy shall include at least the following provisions as well as other grounds determined appropriate by the board:

(a) willful conduct which materially and substantially disrupts the rights of others to an education;

(b) willful conduct which endangers school district employees, the student or other students, or the property of the school;

(c) willful violation of any rule of conduct specified in the discipline policy adopted by the board.

Subd. 3. Policy components. The policy shall include at least the following components:

(a) rules governing student conduct and procedures for informing students of the rules;

(b) the grounds for removal of a student from a class;

(c) the authority of the classroom teacher to remove students from the classroom pursuant to procedures and rules established in the district's policy;

(d) the procedures for removal of a student from a class by a teacher, school administrator, or other school district employee;

(e) the period of time for which a student may be removed from a class, which may not exceed five class periods for a violation of a rule of conduct;

(f) provisions relating to the responsibility for and custody of a student removed from a class;

- (g) the procedures for return of a student to the specified class from which the student has been removed;
- (h) the procedures for notifying a student and the student's parents or guardian of violations of the rules of conduct and of resulting disciplinary actions;
- (i) any procedures determined appropriate for encouraging early involvement of parents or guardians in attempts to improve a student's behavior;
- (j) any procedures determined appropriate for encouraging early detection of behavioral problems;
- (k) any procedures determined appropriate for referring a student in need of special education services to those services;
- (l) the procedures for consideration of whether there is a need for a further assessment or of whether there is a need for a review of the adequacy of a current individual education plan of a student with a disability who is removed from class;
- (m) procedures for detecting and addressing chemical abuse problems of a student while on the school premises;
- (n) the minimum consequences for violations of the code of conduct; and
- (o) procedures for immediate and appropriate interventions tied to violations of the code.

History: *1Sp1995 c 3 art 9 s 32*

127.411 SCHOOL SITE MEDIATION BOARD.

Subdivision 1. **Board allowed.** A school district or school site council may establish a school site mediation board. The board shall consist of equal numbers of staff and parents and, in the case of secondary schools, student representatives. Members shall be representative of the school community and shall be selected by a method as determined in the district's discipline policy.

Subd. 2. **Purposes and duties.** The board shall mediate issues in dispute at the school site related to the implementation of district and school site codes of conduct under sections 127.40 to 127.413, and the application of the codes to a student.

History: *1Sp1995 c 3 art 9 s 33*

127.412 OMBUDSPERSON SERVICE.

A school district or school site council may establish an ombudsperson service for students, parents, and staff. The service shall consist of an administrator, a student, a parent, and a teacher. The school site shall notify students, parents, and staff of the availability of the service. The service shall provide advocacy for enforcement of the codes of conduct and the procedures to remediate disputes related to implementation of the code of conduct and the goals of the school in maintaining an orderly learning environment for all students.

History: *1Sp1995 c 3 art 9 s 34*

127.413 NOTIFICATION.

Representatives of the school board and the exclusive representative of the teachers shall discuss issues related to notification prior to placement in classrooms of students with histories of violent behavior and any need for intervention services or conflict resolution or training for staff in such cases.

History: *1Sp1995 c 3 art 9 s 35*

127.42 REVIEW OF POLICY.

The principal or other person having general control and supervision of the school, and representatives of parents, students, and staff in a school building shall confer at least annually to review the discipline policy and to assess whether the policy has been enforced. Each school board shall conduct an annual review of the districtwide discipline policy.

History: *1Sp1995 c 3 art 9 s 36*

127.455 MODEL POLICY.

The commissioner of children, families, and learning shall maintain and make available to school boards a model sexual, religious, and racial harassment and violence policy. The model policy shall address the requirements of section 127.46.

Each school board shall submit to the commissioner of children, families, and learning a copy of the sexual, religious, and racial harassment and sexual, religious, and racial violence policy the board has adopted.

History: *1Sp1995 c 3 art 16 s 13*

127.47 SCHOOL LOCKER POLICY.

Subdivision 1. Policy. It is the policy of the state of Minnesota that:

“School lockers are the property of the school district. At no time does the school district relinquish its exclusive control of lockers provided for the convenience of students. Inspection of the interior of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant. The personal possessions of students within a school locker may be searched only when school authorities have a reasonable suspicion that the search will uncover evidence of a violation of law or school rules. As soon as practicable after the search of a student’s personal possessions, the school authorities must provide notice of the search to students whose lockers were searched unless disclosure would impede an ongoing investigation by police or school officials.”

Subd. 2. Dissemination. The locker policy must be disseminated to parents and students in the way that other policies of general application to students are disseminated. A copy of the policy must be provided to a student the first time after the policy is effective that the student is given the use of a locker.

History: *1995 c 226 art 3 s 11*

127.48 POLICY TO REFER FIREARMS POSSESSOR.

Each school board must have a policy requiring the appropriate school official to, as soon as practicable, refer to the criminal justice or juvenile delinquency system, as appropriate, any pupil who brings a firearm to school unlawfully.

History: *1995 c 226 art 3 s 12*