

## *DMCS Expulsion Policy*

### Definitions and Limitations

#### 1.1 Definition

“Expulsion” means removal of a pupil from the immediate supervision and control, or the general supervision, of certificated school personnel

#### 1.2 Limitations

1.2.1. Expulsion is an action taken by the Governing Board for severe or prolonged breaches of discipline by a pupil. Expulsion, except for single acts of a grave nature, is usually reserved for application where there is a history of misconduct and where other forms of discipline, including suspension, have failed.

1.2.2. A pupil may be expelled only by the Governing Board.

### Cause for Expulsion

2.1 For a pupil to be expelled for any action defined in this section, the act must have been related to a school activity or attendance.

2.2 The director is required to recommend a pupil’s expulsion for any of the following acts:

2.2.1 Causing serious physical injury to another person, except in self-defense.

2.2.2 Possession of any firearm, knife, explosion or other dangerous object of no reasonable use to the public at school or at a school activity off school grounds.

2.2.3 Unlawful possession of any controlled substance, as defined in Section 11053 of the Health and Safety Code, except for the sale of not more than one avoirdupois ounce of marijuana than concentrated cannabis.

2.2.4 Robbery or extortion

2.2.5 Exception: Where expulsion is inappropriate, due to the particular circumstances, the director may decide not to recommend expulsion. However, the director shall create a written record of the facts of the incident that make expulsion inappropriate.

2.3 The director shall immediately suspend and recommend for expulsion of a pupil that s/he determines has committed any of the following acts at school or at a school activity off school grounds:

2.3.1 Possessing, selling, or otherwise furnishing a firearm. This subdivision does not apply to an act of possessing a firearm if the pupil had obtained prior written permission to possess the firearm from a certificated school employee, which is concurred in by the director or designee of the director. The possession of the firearm must be verified by an employee of Dixon Montessori Charter School in order to expel under 2.3.1.

2.3.2 Brandishing a knife at another person.

2.3.3 Unlawfully selling a controlled substance listed in Health and Safety Code section 11053.

2.3.4. If the Governing Board finds one or more of the acts listed in 2.3.1, 2.3.2, or 2.3.3 the Governing Board may expel the student and shall refer that student to a program of study that (1) is appropriately prepared to accommodate pupils who exhibit discipline problems, (2) is not provided as a comprehensive middle, junior, or senior high school. or any elementary school and (3) is not housed at the school site attended by the pupil at the same time of suspension.

2.4 The Governing Board may order a pupil expelled upon recommendation by the director or administrative hearing officer or panel finding that the pupil violated any of the following acts:

2.4.1 Caused, attempted to cause, threatened to cause physical injury to another person.

2.4.2. Possessed, sold or otherwise furnished any firearm, knife, explosive, or any other dangerous object unless, in the case of possession of any such object, the pupil had obtained written permission to possess the item from a certificated school employee, which is concurred in by the principal or the designee of the principal.

2.4.3 Unlawfully possessed, used, sold or otherwise furnished, or been under the influence of, any controlled substance, as defined in Section 11053 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind.

2.4.4 Committed or attempted to commit robbery or extortion, unlawfully offered, arranged, or negotiated to sell any controlled substance listed in the Health and Safety Code, an alcoholic beverage, or intoxicant of any kind, and then either sold, delivered, or otherwise furnished to any person another liquid, substance, or material and represented the liquid, substance or material as a controlled substance, alcoholic beverage, or intoxicant.

2.4.5 Caused or attempted to cause damage to school property or private property.

2.4.6 Stole or attempted to steal school property or private property.

2.4.7. Possessed or used tobacco, except as provided in Education Section 48901.

2.4.8 Committed an obscene act or engaged in habitual profanity or vulgarity

2.4.9 Unlawfully possessed, offered, arranged, or negotiated to sell any drug paraphernalia, as defined in Section 11014.5 of the Health and Safety Code.

2.4.10 Disrupted any school activities or otherwise willfully defied the valid authority of supervisors, teachers, administrators, or other school officials, or other school personnel engaged in the performance of their duties. Such acts include, but are not limited to, cheating, forgery, gambling, hazing, and willful disobedience to the directors of school personnel.

2.4.11 Knowingly received stolen school property or private property.

2.4.12 Possession of an imitation firearm

2.4.13 Unlawful harassment

2.4.14 The Governing Board must also find either of the following: (1) Other means of correction are not feasible or have repeatedly failed to bring about proper conduct, or (2) Due to the nature of the violation, the presence of the pupil causes a continuing danger to the physical safety of the pupil or others.

2.4.15 The Governing Board shall refer a pupil who has been expelled under 2.2.1-2.2.4 or 2.4.1-2.4.13 to a program of study that: (1) is appropriately prepared to accommodate pupils who exhibit discipline problems, (2) is not provided at a comprehensive middle,

junior, or senior high school, or any elementary school, and (3) is not housed at the school site attended by the pupil at the time of suspension.

However, if a pupil was expelled for the lesser offenses in 2.4.6-2.4.13 and the county superintendent certifies that a program is not available at a site away from a comprehensive elementary, middle, junior, or senior high school and that the only option for placement is at another comprehensive elementary, middle, junior, or senior high school, then the student may be referred to a program that is provided there.

2.5 On recommendation by the director, hearing officer or administrative panel, the Governing Board may order a pupil with previously identified special needs expelled, but only if the Board finds, based upon a determination by the IEP team, that the misconduct was not caused by the identified handicap or by an inappropriate placement.

### Expulsion: Procedures

#### 3.1 Procedures Prior to Expulsion

3.1.1 When a pupil fails to respond to other procedures and the advisability of continuing the pupil in school is questioned in terms of the pupil's own or other pupil's welfare, a final pupil-parent/guardian – director conference will be held, whenever possible, prior to the time the director makes the decision to recommend expulsion.

3.1.2 Procedures to be followed in the conference: (1) The case will be reviewed with the parent/guardian and the pupil and they will be informed that unless the pupil's attitude and behavior change, the director will ask the Governing Board to expel the pupil. (2) Specific conditions will be established which must be met by the pupil in order to remain in school. (3) A written summary of the points covered in the conference will be made and signed by the student, the principal and the parent or guardian. (4) A copy of the summary of the conference will be mailed to parent or guardian.

3.1.3 If the director decides to recommend expulsion, s/he may extend the suspension during the expulsion process. To do so, the director or his or her designee must determine that the presence of the student at the school or at an alternative school placement would cause a danger to persons or property or a threat of disrupting the instructional process. This determination must be made following a meeting in which the pupil and pupil's parent or guardian is invited to participate. This meeting must take place within five days of the suspension. After the meeting, the parents and pupil should be notified in writing of the administrator's determination.

#### 3.1 Procedures for Expulsion

3.2.2.1 An expulsion hearing shall be held within 30 days of the date the director determines the pupil has committed any of the acts enumerated in Section 2.

The pupil may request in writing a postponement not to exceed 30 calendar days. Any additional postponement may be granted at the discretion of the Governing Board.

The director or the director's designee may, for good cause, extend the time period for the expulsion hearing for five school days, in the event that compliance by the Governing Board with the time requirement is impracticable. Reason for the extension of the time for the hearing shall be included as part of the record at the time of the expulsion hearing is conducted. Once the hearing begins, it shall be conducted with reasonable diligence and without unnecessary delay.

3.2.2.2 Options: In lieu of conducting an expulsion hearing itself, the Governing Board may contract with the county hearing officer, or with the Office of Administrative Hearings of the State of California. Alternatively, the Board may appoint an impartial administrative panel composed of three or more certificated personnel, none of whom shall be on staff of the school in which the pupil is enrolled as members of the board.

### 3.2.3 Written Notice of Hearing

Written notice of the hearing shall be forwarded to the pupil and the pupil's parents/guardian at least ten days prior to the date of the hearing. The notice shall be, insofar as practicable, in the primary language of the student's parents or guardian. Such notice shall include:

3.2.3.1 The date and place of the hearing;

3.2.3.2. A statement of the specific facts and charges upon which the proposed expulsion is based;

3.2.3.3 A copy of disciplinary rules of DMCS which relate to the alleged violation;

3.2.3.4 The opportunity of the pupil or the pupil's parent/guardian to: (1) appear in person or to employ and be represented by counsel; (2) inspect and obtain copies of all documents to be used in the hearing; (3) confront and question all witnesses who testify at the hearing; (4) question all evidence presented, and present oral and documentary evidence on the pupil's behalf, including witnesses.

3.2.4.1 Closed Session: The Governing Board shall conduct a hearing to consider the expulsion of a pupil in a session closed to the public unless the pupil requests in writing at least five days prior to the hearing that the hearing be a public meeting. If such a request is made of the Governing Board, the meeting shall be public. Whether the expulsion hearing is held in closed or public session, the Board may meet in closed session to determine if the pupil should be expelled. The parent/guardian of pupil, the pupil, counsel of pupil's parents/guardian shall be allowed to attend the closed session if the Governing Board admits any other person to the closed session.

3.2.4.2 Record of Hearing: A record of the hearing shall be made. Such record may be maintained by any means, including electronic recording, so long as a reasonable accurate written and complete transcription of the proceedings can be made.

3.2.4.3 Presentation of Evidence: If the hearing officer or administrative panel recommends expulsion, findings of fact shall be based solely on the evidence of the hearing. While no evidence shall be based solely on hearsay evidence, the testimony of witnesses whose disclosure may subject them to an unreasonable risk of harm may be admitted in the form of sworn declarations.

3.2.4.4 While technical rules of evidence do not apply to such hearings, evidence may be admitted and used as proof only if it is the kind of evidence on which reasonable persons

can rely in the conduct of serious affairs. The decision of the Governing Board to expel must be supported by the substantial evidence that the committed any of the above acts enumerated under Section 2, Cause for Expulsion.

3.2.4.5 Final action by Governing Board: Whether the pupil expulsion hearing is conducted in closed or public session, by the Governing Board or by a hearing officer or administrative panel, the final action to expel must be taken by the Governing Board at a public hearing.

3.2.4.6 The decision of the Governing Board whether to expel a pupil shall be made within 10 school days following the conclusion of the hearing, unless the pupil requests in writing that the decision be postponed.

3.2.4.7 The Governing Board will maintain a record of each expulsion, including the cause therefore. The expulsion order shall be maintained in the pupil's mandatory interim record and sent to any school in which the student subsequently enrolls upon written request by the admitting school.

### 3.2.5 Written Notice to Expel

3.2.5.1 Written notice of the decision to expel shall be sent to the pupil and/or parent/guardian. The notice shall be, insofar as practicable, in the primary language of the student's parent/guardian. It shall include notice of the right to appeal such expulsion to the County Board of Education.

3.2.5.2 Sending written notice of the decision of the Governing Board to expel shall be the responsibility of the director's designee, and shall include the following: (1) reason for expulsion, citing the Education Code Section and sub-section, if possible; (2) conditions of expulsion and when the case will be reviewed, if appropriate; (3) possible terms of readmission (such as significant change of attitude or behavior or verification by a rehabilitation authority) and offer to assist the parents or guardian; (4) procedure for review of case and possible readmission; (5) date on which the pupil may reapply for admission; (6) notice that the expulsion may be appealed to the County Board of Education within 30 days of expulsion. Notice shall include appropriate Education Sections relating to the County Board of Education Appeal Process.

### 3.2.6 Expulsion: Readmission (Board Denies Expulsion)

On acceptance by the Governing Board of a recommendation against expulsion, or following its own decision after the hearing not to expel, the pupil shall be reinstated immediately. The Board may reinstate the pupil in any classroom program, rehabilitation program or any combination of such programs following consultation with DMCS or Dixon Unified personnel including the teacher(s) involved and with the parent/guardian of the pupil.

### 3.2.7 Expulsion: Length of Expulsion/Re-Hearing Procedures/ Plan for Rehabilitation

An expulsion order shall remain in effect until the Governing Board may order the readmission of the pupil. Upon the expulsion order, the Governing Board shall set a date no later than the last date of the semester following the semester in which the expulsion

occurred, when the pupil may apply for readmission to DMCS. The Governing Board may recommend a plan for rehabilitation for the pupil, which may include: (1) Periodic review and assessment at the time of application for readmission; (2) Recommendation for counseling, employment, community service and rehabilitation programs; (3) Such other recommendations as the Board shall approve.

### 3.2.8 Expulsion; Readmission (Following Board Approved Expulsion)

3.2.8.1 A written request for review of expulsion action and request for readmission shall be submitted by the parent/guardian to the Director or the Director's designee.

3.2.8.2 The Director or his/her designee will hold a conference with the parent/guardian and the pupil. At the conference the conditions for readmission will be reviewed and verification obtained that the conditions have been met. School regulations will be reviewed and the pupil and the parent/guardian will be asked to indicate in writing their willingness to comply with the regulations.

3.2.8.3 The Director will transmit the request to the Board for consideration along with his/her recommendation. The Governing Board may consider the request in closed session or open session; however, the consideration will be in open session if a written request for open session is received from the pupil or the parent/guardian.

3.2.8.4 The Director will notify the pupil and/or the pupil's parent/guardian, by registered mail, of the decision of the Governing Board regarding readmission of the pupil in school.

### 3.2.9 Expulsion: Suspension of Expulsion

3.2.9.1 The Governing Board may upon voting to expel a pupil, suspend the enforcement of the expulsion order for not more than one calendar year.

3.2.9.2 Conditions of Suspension of Expulsion Order: (1) As a condition of the expulsion order, the Governing Board may assign the pupil to a school, class or program appropriate for the pupil's rehabilitation. (2) During this period the pupil shall be on probationary status. (3) The suspension of the expulsion order may be revoked by the Governing Board upon the pupil's commission of any of the acts enumerated in Education Section 48900, as stated under 2, Causes for Expulsion, above, or for any violation of Dixon Montessori Charter School's rules and regulations governing pupil conduct.

3.2.9.3 Revocation of Expulsion Order: Upon revocation of the suspension or expulsion order, a pupil may be expelled under the terms of the original expulsion order.

3.2.9.4 Readmission of Pupil: If the pupil demonstrates that s/he has successfully completed the assignment program of rehabilitation, by the conclusion of the designated probationary period, the Governing Board shall reinstate the pupil in DMCS and order the expungement of all records of the expulsion proceedings.

### 3.2.10 Expulsion: Right to Appeal

3.2.10.1 The pupil or the pupil's parent/guardian is entitled to file an appeal of the decision of the Governing Board to the County Board of Education.

3.2.10.2 The appeal must be filed within 30 days following the decision of the Governing Board to expel even if the expulsion action is suspended and the pupil is placed on probation.



