

# ZERO TOLERANCE

## Quick Reference Guide



Michigan Association of  
Secondary School Principals

A series of revisions to Michigan's Zero Tolerance laws take effect August 1, 2017. These changes require districts to conduct a thorough review of local student discipline policies and procedures. In particular, Principals should be aware of the following:

- The new laws require consideration of seven factors in EVERY case of suspension or expulsion EXCEPT FIREARMS.
- Administrators can use the new factors as justification to not to suspend or expel a pupil, even for a "zero tolerance" offense, EXCEPT FIREARMS.
- There is a rebuttable presumption that any suspension over 10 days is unjustified "unless the [district]...can demonstrate that it considered each of the factors."<sup>1</sup>
- Districts must consider using restorative practices as an alternative to or in addition to suspension.

NOTE: This guide is designed as a quick reference for implementing the new laws. It is not a comprehensive review of every aspect of the changes.

## THE 7 FACTORS

*District MUST consider in all cases EXCEPT FIREARMS:*

- 1 student's age
- 2 student's disciplinary history
- 3 seriousness of offense
- 4 whether student has disability
- 5 whether violation threatened health/safety
- 6 whether to use restorative practices
- 7 whether lesser intervention is appropriate

## con · sid · er

Districts must "consider" many things under the new laws, but "the method used for consideration of the factors is at the sole discretion of the board."<sup>2</sup>

To avoid problems, the keys to success are: 1. Establish CONSISTENT methods of consideration and 2. DOCUMENT your consideration – especially for discipline greater than 10 days.

## TO DO BEFORE THE 2017-18 SCHOOL YEAR STARTS:

- Update your student handbook to be consistent with district policy AND comply with the new law.
- Update forms and processes to reflect the new law.
- Educate your staff about the new law so they are prepared for changes. In particular, they should know:
  - That the district MUST consider the seven factors, since this may result in different discipline outcomes than they are used to.
  - What role, if any, they may play in restorative practices.

## Effective August 1

## Restorative Practices

The new laws require that schools consider using restorative practices in addition to or in place of suspension or expulsion. The new law defines restorative practices as "practices that emphasize repairing the harm to the victim and the school community caused by a pupil's misconduct."<sup>3</sup>

They may include...

- Victim-offender conferences
- Opportunity for the offender to accept responsibility and "repair the harm"

They may require the offender to...

- Apologize
- Participate in community service, restoration, or counseling
- Pay restitution

# FREQUENTLY ASKED QUESTIONS

## How do the requirements of the new law compare with what was in place previously?

SECTION	TRIGGERING OFFENSE	OLD LAW	NEW LAW
MCL 380.1310	Pupil enrolled in grade 6 or above commits a physical assault against another student at school.	School shall suspend or expel the pupil from the school district for up to 180 school days.	Before suspension or expulsion, school shall consider the seven factors.
MCL 380.1311(2)	Pupil possesses a dangerous weapon at school; or commits arson at school; or commits criminal sexual conduct at school.	School shall expel the pupil from the school district permanently (subject to successful petition for reinstatement).	Before expulsion, school shall consider the seven factors. These considerations do not apply when a student possesses a firearm in a weapon free school zone.
MCL 380.1311A	Pupil enrolled in grade 6 or above commits a physical assault against an employee, volunteer, or contractor of the school.	School shall expel the pupil from the school district permanently (subject to successful petition for reinstatement).	Before expulsion, school shall consider the seven factors.
MCL 380.1311(1)	Pupil is guilty of gross misdemeanor or persistent disobedience, and school officials believe suspension or expulsion is in the interest of the school.	School may suspend or expel.	Before suspension or expulsion, school shall consider the seven factors.

## Does an in-school suspension count as “suspension”?

The law is silent on in-school suspension, but depending on how a district structures their in-school suspension, such a placement may not trigger any of the mandates of the new law. Consider the following questions:

- Do you have a certified teacher in charge?
- Do students have access to academic support and other services (speech pathologist, social worker, etc.) that make ISS more of an alternative placement than discipline?
- Does your school call the placement "in-school suspension" or something else?

The more an in-school suspension looks like and is treated like a different kind of placement rather than a form of discipline, the stronger the argument that ISS does not trigger the requirements of the new law. In addition to changing the structure of ISS, districts can take simple steps to make this distinction clearer:

- Have your school board designate, through policy, the nature and definition of the placement.
- Change the name and do not refer to it as in-school suspension.

## Do the 7 factors enumerated in MCL 380.1310d need to be listed in school or board policy and/or student code of conduct?

There is no legal requirement that the 7 factors be listed in your district documents. The legal requirement is that you consider them.

School policy manuals and student handbooks are often written to include the language of the law in order to save the person reading the document from having to look up the relevant statute. Other times, they simply include a reference to relevant statute or a statement that the district will "comply with relevant state law." The downside of including the language of the law in your policy or handbook is that, if or when the law changes, you also have to make sure you update it.

In making a decision about how to update your local policies, administrative guidelines, and student handbooks consider: 1) who is your audience, and 2) what is the purpose of the document and how will it be used. Answering these questions will help guide you in terms of what content you might want to include when making revisions.

## RESOURCES

**MASSP Model Student Handbook Service**  
[mymassp.com/studenthandbookservice](http://mymassp.com/studenthandbookservice)

**MDE Restorative Practices**  
 shortened link: <https://goo.gl/VyKFmM>

**MASSP Model Discipline Form**  
[mymassp.com/files/Model\\_Discipline\\_Form.pdf](http://mymassp.com/files/Model_Discipline_Form.pdf)

**Rethink Discipline Implementation**  
[studentadvocacycenter.org/policy/rethink](http://studentadvocacycenter.org/policy/rethink)