



## **JK - STUDENT DISCIPLINE AND RIGHTS OF STUDENTS WITH DISABILITIES/PROCEDURES REGARDING DISCIPLINE OF STUDENTS WITH DISABILITIES**

The objective of disciplining any student is to maintain a safe school environment, help the student develop and maintain self-control, learn respect for others, and adopt socially acceptable behavior. All policies and procedures regarding student discipline will be designed to achieve these broad objectives. The District will address a student's disruptive behavior in a manner that allows other students to learn in an atmosphere which is safe, conducive to the learning process and free from unnecessary disruptions.

The Board, in accordance with state law and in consultation with school administrators, has adopted a written student conduct and discipline code based upon the principle that every student is expected to follow the code of conduct. The code also emphasizes that certain behavior, especially behavior that disrupts the classroom, is unacceptable and may result in disciplinary action. Restorative practices will be considered in appropriate circumstances and may be utilized to address the consequences of student misconduct, as determined by the District.

The District will emphasize best practices in building positive and inclusive learning environments for all students. When enforcing code of conduct violations, students and their parent/caregiver will be informed of the conduct and how it violates the code of conduct or other District policies. To the extent practicable and within budgetary constraints, the District will develop and implement plans for the appropriate use of prevention, intervention, restorative practices, peer mediation, counseling and/or other approaches to help students avoid unacceptable behavior and minimize their exposure to exclusionary discipline and the criminal and juvenile justice system.

### **Definitions**

For the purposes of this policy, these terms have the following meanings:

- **“Behavioral intervention plan”** is a plan that may be developed for students supported with an IEP that addresses the behaviors that are not appropriate for school and specific ways the school will try to reduce those behaviors by teaching the student more appropriate ways to get their needs met. A BIP is based on a functional behavioral assessment.
- **“Restorative practices”** involves practices that emphasize repairing the harm to victims and/or the school community caused by a student's misconduct.
- **“Serious bodily injury”** means bodily injury which involves: (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

## **Expulsion Prevention**

Expulsion should generally be the last step taken after other attempts to address behaviors of students. Prior to recommending expulsion of any student, the Board or its designees must consider the six factors identified in District Policy JKD/JKE – Suspension/Expulsion of Students, as well as whether alternative remedies are appropriate and whether excluding the student from school is necessary to preserve the learning environment. The District will provide students who are identified as at risk of suspension or expulsion with the necessary support services to help them avoid expulsion. In doing so, District employees will work with the student's parent/caregiver. Supports may be provided through agreements with appropriate local governmental agencies, community-based organizations, and higher education institutions.

The District's failure to identify a student for participation in an expulsion prevention program, to provide support services, or to remediate a student's behavior will not be grounds to prevent school administration from proceeding with appropriate disciplinary measures and will not be grounds for the student or student's parent/caregiver to challenge any disciplinary action that may be taken against the student. However, a recommendation for expulsion may be challenged where a lesser intervention would have properly addressed the violation under JKD/JKE-R – Procedures Regarding Suspension/Expulsion of Students.

## **Disciplinary Information**

In accordance with state law, the principal or designee is required to communicate disciplinary information concerning any student enrolled in the school to any teacher who has direct contact with the student in the classroom and to any counselor who has direct contact with the student. The purpose of this requirement is to keep school employees informed of situations that could pose a risk to the safety and welfare of others.

Any teacher or counselor to whom disciplinary information is reported must maintain the confidentiality of the information and will not communicate it to any other person, unless that person has a legitimate reason to know the information as permitted under the Family Educational Rights and Privacy Act (FERPA) and related privacy laws. The principal or designee is required to inform the student and the student's parent/caregiver when disciplinary information is communicated and to provide a copy of the disciplinary information. The student and/or the student's parent/caregiver may challenge the accuracy of disciplinary information.

## **Discipline of Students with Disabilities**

Students with disabilities who engage in conduct that violates the code of conduct may be disciplined in accordance with their Individualized Education Programs (IEPs) or Section 504 plan, any behavioral intervention plan, and this policy.

Nothing in this policy prohibits an IEP or Section 504 team from establishing consequences for disruptive or unacceptable behavior as a part of the student's IEP, Section 504 plan and/or behavioral intervention plan.

### **Suspensions, Expulsions, and Provision of Services**

Students with disabilities may be suspended for up to 10 school days in any given school year for violations of the student code of conduct. These 10 days need not be consecutive. During any such suspension, the student is not required to receive educational services or accommodations.

A disciplinary change of placement occurs when a student is removed for more than 10 consecutive school days or subjected to a series of removals that constitute a pattern of removal under governing law. Any unilateral removal for a behavioral issue is considered a disciplinary removal and counts toward a disciplinary change of placement; this is covered in District Policy IHBA – Abbreviated School Day.

Upon the eleventh school day of suspension or removal when such suspension or removal does not result in a disciplinary change of placement, for a student with an IEP educational services will be provided to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. For a student with a Section 504 plan, accommodations will be provided to ensure student access to education upon the eleventh day of removal. District employees, in consultation with at least one of the student's teachers, will determine the educational services or accommodations to be provided to the student with an IEP or Section 504 plan during this period of suspension or removal.

When a student is expelled or subject to a removal that results in a disciplinary change of placement, for a student with an IEP, educational services will be provided as determined by the student's IEP team to enable the student to participate in the general education curriculum, although in another setting, and to progress toward meeting their IEP goals. When a student with a Section 504 plan is expelled or subject to a removal that results in a disciplinary change of placement, the Section 504 team will determine how to ensure the student can access education.

Prior to expulsion or other disciplinary change in placement, the student's parent/caregiver will be notified of the decision to take such disciplinary action and of their procedural safeguards. This notification will occur not later than the date on which such decision is made.

### **Manifestation Determination**

Within 10 school days from the date of the decision to take disciplinary action that will result in a disciplinary change of placement, members of the student's IEP or Section 504 team, including the student's parent/caregiver, will review all relevant information in

the student's file, including the student's IEP or Section 504 plan, any teacher observations, and any related information provided by the parent/caregiver, to determine whether the student's behavior was a manifestation of the student's disability.

The team will determine: (1) whether the student's conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; and (2) whether the student's conduct in question was the direct result of the school's failure to implement the student's IEP or Section 504 plan. If the answer to either of these two questions is "yes," the student's behavior will be deemed to be a manifestation of the student's disability.

### **Disciplinary Action for Behavior that is not a Manifestation**

If the team determines that the student's behavior was not a manifestation of the student's disability, disciplinary procedures will be applied to the student in the same manner as applied to students without a disability. As stated above, the student will receive educational services during the period of expulsion or other disciplinary change of placement.

Within a reasonable amount of time after determining that the student's behavior is not a manifestation of the student's disability, the student may receive, as appropriate, a functional behavioral assessment ("FBA"). In addition, a behavioral intervention plan ("BIP") may be developed for the student, as appropriate. If a BIP has already been developed, the BIP may be reviewed and modified, as appropriate.

### **Disciplinary Action and/or Alternative Placement for Behavior that is a Manifestation**

If the team determines that the student's behavior is a manifestation of the student's disability, expulsion proceedings or other disciplinary change of placement will be discontinued. However, the student may be placed in an alternative setting for up to 45 school days as discussed below or the student's placement may be changed for educational reasons as determined by the IEP team, Section 504 team, or as otherwise permitted by law.

If the student has an IEP, within a reasonable amount of time after determining that the student's behavior is a manifestation of the student's disability, the student's IEP team will: (1) conduct an FBA of the student, unless an FBA has already been conducted; and (2) implement a BIP for the student. If a BIP has already been developed, the IEP team will review it and modify it as necessary to address the student's behavior. If the student has a Section 504 plan, the Section 504 team will determine if an FBA is appropriate.

## **Placement in an Alternative Setting for 45 School Days**

The District may remove a student with a disability to an interim alternative setting for not more than 45 school days without regard to the manifestation determination if the student, while at school, on school premises, or at a school activity or event:

1. Carried or possessed a weapon;
2. Possessed or used illegal drugs;
3. Sold or solicited the sale of a controlled substance; or
4. Inflicted serious bodily injury on another.

The District may also remove a student to an interim alternative setting as described above if a hearing officer or court of appropriate jurisdiction so orders, if there is a finding that maintaining the current placement of such child is substantially likely to result in injury to the child or to others. An interim alternative setting may include homebound, online classes, or placement at a different school site.

Such removal to an alternative setting is permissible even if the student's behavior is determined to be a manifestation of the student's disability. If the student has an IEP, the student's IEP team will determine the educational services to be provided to the student in the alternative setting. If the student has a Section 504 plan, the Section 504 team will determine how to ensure accommodations are provided.

## **Students Suspected of being a Student with a Disability**

If the District has "knowledge" of a student's disability at the time the student's conduct occurred, the student is provided the same rights and process as a student who has been identified as a student with a disability.

The District is deemed to have knowledge of the student's disability if:

- the student's parent/caregiver has expressed concern in writing to a District administrative employee, or the student's teacher, that the student is in need of special education and related services;
- the student's parent/caregiver has requested an evaluation; or
- the student's teacher or other District employee have expressed specific concerns about the student's pattern of behavior directly to the director of special education or other District supervisory personnel.

If a request for evaluation is made during the period the student is subject to disciplinary measures, the evaluation will be expedited. Until the evaluation is completed, the student will remain in the District's determined educational placement, which can include suspension or expulsion.

The District will not be deemed to have knowledge that the student is a child with a disability if the parent/caregiver has not allowed an evaluation of the student, or the student has been evaluated and it was determined that is the student is not a child with a disability, or the student was determined eligible for special education and related services, but the parent/caregiver refused services.

Current practice codified 1995

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Revised by Board: April 23, 2007, effective July 1, 2007

Revised by Board: June 21, 2011, effective July 1, 2011

Revised by Board: June 12, 2012, effective July 1, 2012

Revised by Board:

**Cross References:**

IHBA – Abbreviated School Day

JKBA – Disciplinary Removal from Classroom

JKC – Discipline of Habitually Disruptive Students

JKD/JKE – Suspension/Expulsion of Students

JKD/JKE-R – Procedures Regarding Suspension/Expulsion of Students

JKDA/JKEA – Grounds for Suspension/Expulsion of Students

**Legal References:**

C.R.S. 22-32-109.1(2) (requirement to adopt and implement a safe school plan)

C.R.S. 22-32-126(5) (communicate discipline information to student's teachers and counselor)

C.R.S. 22-33-106(1)(a-e) (grounds for suspension, expulsion, and denial of admission)

C.R.S. 22-33-202 (identification of at-risk students, attendance issues, disproportionate discipline practices)

C.R.S. 22-20-101 et seq. (Exceptional Children's Educational Act)

20 U.S.C. 1401 et seq. (Individuals with Disabilities Education Act)

29 U.S.C. 701 et seq. (Rehabilitation Act of 1973)