

DISCIPLINING STUDENTS WITH DISABILITIES

I. GENERALLY

When ACPS Student Code of Conduct violations result in a student with a disability being issued disciplinary consequences, ACPS utilizes the Multi-Tiered Systems of Supports (MTSS) framework for positive behavioral interventions, including the use of restorative practices and the Parent Resource Center (PRC). When issuing disciplinary consequences for a student with a disability, the following procedures must be followed. School IEP teams may consider any unique circumstances on a case-by-case basis when determining if a change in placement is necessary for a child with a disability as a result of discipline.

II. LONG-TERM SUSPENSIONS, EXPULSIONS OR SHORT-TERM SUSPENSIONS WHICH CONSTITUTE A PATTERN ARE LONG TERM REMOVALS AND CONSIDERED A DISCIPLINARY CHANGE IN PLACEMENT

For the purpose of removing students with disabilities from their current educational placements, a disciplinary change in placement occurs when:

- A. The removal is for more than 10 consecutive school days at a time; or
- B. Pattern Analysis: There is a series of removals during the school year, each of which is for 10 days or less and they cumulate to more than 10 days in a school year and constitute a pattern because of:
 1. The length of each removal,
 2. The proximity of the removals to each other,
 3. The total time the student is removed, and
 4. The student's behavior is substantially similar to the student's behavior in the series of removals for previous incidents in the school year.
 5. The pattern analysis determination is made and documented by the administration.

If the disciplinary action will result in a long term removal, then that student's parents/guardians must be sent notice of the recommendation of discipline the same day as the decision is made for the disciplinary change in placement and must be provided with a copy of the procedural safeguards. The procedures outlined in Section V must also be followed.

A parent may request a due process hearing to challenge the pattern analysis determination. For any disciplinary change in placement, a Manifestation Determination Review (MDR) must be held and the Individualized Education Program (IEP) team must meet to determine the educational services to be provided during the long-term removal.

45 **III. SHORT-TERM SUSPENSIONS**

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47 A short-term suspension is a suspension of 10 consecutive days or less at a time.
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49 School authorities may remove any student with a disability from their current
50 educational setting for 10 school days cumulative in a school year to the extent that such
51 removals would be applied to students without disabilities and for additional short-term
52 suspensions during the school year provided no pattern exists. Short term suspensions
53 which constitute a pattern will be handled through long term removal procedures.
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55 No MDR or IEP meeting is required for a short term removal, although an IEP meeting
56 may be held if needed. Educational services are provided for each day of removal after
57 the first ten days of removal in a school year. Educational services will also be provided
58 during the first ten days of removal if services are provided to a student without
59 disabilities in the same circumstances.
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61 **IV. FUNCTIONAL BEHAVIOR ASSESSMENTS (FBAs) AND BEHAVIOR**
62 **INTERVENTION PLANS (BIPs)**

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64 If the MDR team members determine that a manifestation exists, the IEP team must:

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66 A. Conduct a Functional Behavior Assessment (FBA) and implement a Behavioral
67 Intervention Plan (BIP), if no FBA was conducted previously; or
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69 B. If the student already has an FBA and BIP in place, review and modify the BIP, as
70 necessary, to address the behavior.
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72 If a manifestation is found, ACPS and the parent/guardian may still agree to a change in
73 placement made through the IEP process. Without this agreement, the student must return
74 to the placement from which the student was removed. Nothing in this section limits the
75 authority of ACPS for the first ten days of removal in a school year or for applicable
76 forty-five school day removals.
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78 If the MDR team members determine that there is no manifestation, then the IEP team
79 should decide whether there is a need to conduct or review an FBA and BIP.
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81 **V. EDUCATIONAL SERVICES WHILE DISCIPLINED**

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83 For the first 10 days of removal in a school year, ACPS will provide educational services
84 to the student with a disability if services are provided to students without disabilities
85 who have been similarly removed.

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After the first 10 days of removal in a school year, ACPS provides services to the student during the period of removal. The services must enable the student to:

- A. Continue to progress in the general curriculum, although in another setting; and
- B. Make progress toward meeting the goals set out in the student's IEP.

The determination of the educational services is made by the IEP team if the discipline constitutes a change in placement. For a short term removal that is not a change in placement, the determination of the education services is made by school personnel in consultation with the student’s special education teacher.

VI. MANIFESTATION DETERMINATION REVIEW

When a disciplinary action is proposed that will result in a disciplinary change of placement, a Manifestation Determination Review (MDR) will be conducted within 10 school days after the date on which the decision to take disciplinary action is made. The review is conducted by the Manifestation Team, which consists of a representative of the Office of Specialized Instruction, the parent(s)/guardian(s), and relevant members of the IEP team (as determined by the parent(s)/guardian(s) and the school division).

The Manifestation Team may determine that the behavior of the student was not a manifestation of such student’s disability only if the Team:

- A. Considers all relevant information in the student’s file, including the student’s IEP, any teacher observations, and any relevant information provided by the parent/guardian; and
- B. Determines that:
 - 1. The conduct in question was not caused by, or did not have a direct and substantial relationship to, the student’s disability; and
 - 2. The conduct in question was not the direct result of the school division’s failure to implement the IEP.

If a manifestation is found, the student cannot be disciplined beyond any permissible short-term removal that may be available.

VII. DISCIPLINARY ACTION FOLLOWING AN MDR DETERMINATION THAT THERE IS NO MANIFESTATION

129 If the behavior is not a manifestation of the student’s disability, the disciplinary
130 procedures will be applied in the same manner as applied to students without disabilities.
131 The student must continue to receive the educational services necessary to enable the
132 student to continue to participate in the general curriculum, even if placed in another
133 setting, and to progress toward meeting the goals set out in the student’s IEP. In addition,
134 the special education and disciplinary records of the student must be made available to
135 the person who makes the final decision regarding the imposition of discipline.

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137 A parent/guardian may request an expedited due process hearing if the parent/guardian
138 disagrees with the determination that the behavior was not a manifestation of the
139 student’s disability or if the parent/guardian disagrees with any decision regarding the
140 placement of the student while disciplined. The placement may also be changed through
141 the IEP process with the consent of the parent/guardian.

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143 **DISCIPLINARY ACTION AND/OR ALTERNATIVE PLACEMENT**
144 **FOLLOWING MDR DETERMINATION THAT THERE IS A MANIFESTATION**

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146 A student with a disability whose behavior is determined to be a manifestation of the
147 student’s disability may not be disciplined except to the extent a removal is otherwise
148 permitted by law. The student may be removed to a different location not constituting a
149 change in placement, or may be removed to a different or more restrictive placement by
150 following change in placement procedures through the IEP process. The IEP team
151 conducts or reviews an FBA and/or BIP as provided in Section IV.

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153 **VIII. INTERIM ALTERNATIVE EDUCATIONAL SETTINGS FOR WEAPONS,**
154 **DRUGS AND INFLICTION OF SERIOUS BODILY INJURY**

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156 Students with disabilities 1) who carry or possess a weapon to or at school, or on school
157 premises, or to or at a school function under the jurisdiction of a state or local educational
158 agency; 2) who knowingly possess or use illegal drugs or sell or solicit the sale of a
159 controlled substance while at school, on school premises, or at a school function, or 3)
160 who inflict serious bodily injury upon another person while at school, on school
161 premises, or at a school function under the jurisdiction of a state or local educational
162 agency may be disciplined pursuant to Policy JFCD: *Weapons in School* and
163 JFCF/JFCI: *Alcohol and Other Drugs (AOD) in Schools* or JGDB: *Discipline of Students*
164 *with Disabilities for Infliction of Serious Bodily Injury* and may be placed in an
165 appropriate interim alternative education setting for up to 45 school days. These options
166 are available even if a manifestation exists. If no manifestation is found, the student may
167 be disciplined to the extent a student without disabilities would be disciplined.

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169 Weapons, controlled substance and serious bodily injury have the meaning given under
170 state regulations in 8 VAC 20-81-10.

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172 Any interim alternative educational setting will be selected by the IEP team, so as to
173 enable the student to continue to progress in the general curriculum, although in another
174 setting, and to progress toward meeting the goals set out in the student’s IEP. The student

175 must also receive, as appropriate, an FBA, behavioral intervention services and
176 modifications designed to address the behavior so it does not recur. During any appeal,
177 the student will remain in the interim alternative education setting unless reversed by
178 decision of the hearing officer; provided, however, the student may still serve the balance
179 of any applicable forty-five school day removal.
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181 **X. CHANGE OF PLACEMENT BY HEARING OFFICER**

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183 In addition to the other options for removal, a hearing officer, through an expedited due
184 process hearing requested by ACPS, may order a change in the placement for a student
185 with a disability to an appropriate interim alternative educational setting for not more
186 than 45 school days if the hearing officer determines that maintaining the current
187 placement of such student is substantially likely to result in injury to the student or others.
188 Additional 45 school day removals may be authorized by the hearing officer as
189 appropriate.
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191 **XI. PLACEMENT DURING APPEALS**

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193 During the course of any appeals, the student’s placement will be in accordance with the
194 provisions of state and federal law unless the parent/guardian and ACPS agree otherwise.
195 Students with disabilities are also entitled to the due process rights available to a non-
196 disabled student who is subject to discipline. In addition, students with disabilities are
197 entitled to the due process procedures available under the Individuals with Disabilities
198 Education Act (IDEA), as amended, and any state procedures.
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200 During the course of any appeals, the student’s placement will be in accordance with the
201 provisions of the Virginia Regulations Governing Students with Disabilities unless the
202 parent/guardian and ACPS agree otherwise.
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204 **XII. STUDENTS NOT YET IDENTIFIED AS HAVING A DISABILITY**

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206 Students for whom the parent(s)/guardian(s) assert there is a disability but who have not
207 yet been identified as disabled may be subject to the same measures applied to students
208 without disabilities if the school division did not have knowledge of the disability before
209 the behavior that precipitated the disciplinary action occurred. ACPS will be found to
210 have knowledge of the student’s disability if, before the behavior that precipitated the
211 disciplinary action occurred, one of the following occurred:
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- 213 A. The parent/guardian expressed concern in writing (or orally if the parent/guardian
214 does not know how to write or has a disability that prevents a written statement) to
215 supervisory or administrative personnel of the school division, or to a teacher of the
216 student, that the student is in need of special education and related services; or
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- 218 B. The parent/guardian requested an evaluation of the student for special education

219 eligibility; or

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221 C. The student’s teacher or other school personnel expressed specific concern about a
222 pattern of behavior demonstrated by the student directly to any administrative
223 personnel of the school division that suggests the presence of a disability.

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225 A school division would not be found to have knowledge of a student’s disability if:

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227 1. The parent/guardian refused to allow an evaluation of the student or refused
228 special education services; or

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230 2. The student was evaluated and found not eligible for special education services.

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232 If a request for initial evaluation is made during the period a student is subject to
233 disciplinary measures, the evaluation is conducted in an expedited manner. If the student
234 is found eligible as a student with a disability, taking into consideration information from
235 the evaluation conducted by ACPS and information provided by the parent/guardian, then
236 the student must be provided special education and related services, even if in another
237 setting, Pending the results of the evaluation, the student will continue to receive
238 educational services in a placement to be determined by school officials.

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240 **XIII. DISCIPLINING CERTAIN SECTION 504 STUDENTS WHO VIOLATE**
241 **ALCOHOL AND DRUG POLICIES**

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243 Students who are identified as having a disability solely under Section 504 of the
244 Rehabilitation Act, and who are currently engaging in the illegal use of drugs or alcohol,
245 may be disciplined for violating the Division’s alcohol and drug policies to the same
246 extent as students without disabilities. The student is not entitled to a due process hearing
247 under special education procedures in this circumstance but does retain the protections
248 afforded to students without disabilities.

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250 **XIV. REPORTING OF CRIMES**

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252 Nothing in these procedures prevents the reporting of a crime to appropriate authorities or
253 prevents state law enforcement and judicial authorities from exercising their
254 responsibilities.

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256 **XV. COMMUNICATION WITH PARENT(S)/GUARDIAN(S)**

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258 All disciplinary incidents involving students with disabilities are documented by school
259 administrators in collaboration with the Office of Specialized Instruction. All such
260 required documentation is maintained by ACPS. Incident reports and all communications
261 to the student’s parents/guardians will be in the parents’/guardians’ preferred language. In
262 addition, ACPS will provide written notification of a student’s rights throughout the
263 entirety of the disciplinary process to the parents/guardians. This includes, but is not

264 limited to, procedural steps and safeguards, Manifestation Determination Reviews
 265 (MDR), the right to appeal determinations, and the right to legal representation. ACPS
 266 will also provide parents/guardians with a list of pro bono legal resources.
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268 **XVI. DATA COLLECTION AND REPORTING**
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270 The Superintendent will annually provide the School Board with the prior school year’s
 271 data reflecting all occurrences of discipline involving students with disabilities for each
 272 school in the Division. The report will include disaggregated, demographic student data,
 273 as well as the resulting MDR outcome, administrative responses or consequences issued
 274 in accordance with the Student Code of Conduct, and any referrals to law enforcement.
 275 (The report will not include personally identifiable information regarding students.)
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277 As outlined in the current Memorandum of Understanding (MOU) between the
 278 Alexandria City School Board and the Alexandria Police Department (APD), any
 279 incident in which a law enforcement officer(s) makes official contact with a student(s)
 280 will be documented, tracked and reviewed by the Office of Safety and Security Services
 281 by using the ACPS Law Enforcement Occurrence Report Form.
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- 283 Adopted: September 5, 1996
- 284 Amended: July 10, 1997
- 285 Amended: July 6, 2000
- 286 Amended: June 15, 2004
- 287 Amended: June 12, 2008
- 288 Amended: July 1, 2011
- 289 Amended: September 17, 2015
- 290 Amended: December 16, 2021

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- 293 Legal Refs: 20 U.S.C. § 1415.
- 294 29 U.S.C. § 705.
- 295
- 296 34 C.F.R. 300.530-300.536.
- 297
- 298 Code of Virginia, 1950, as amended, § 22.1-279.6.
- 299
- 300 8 VAC 20-81-160.
- 301

- 302 Cross Refs.: JFC Student Conduct
- 303 JFCD Weapons in School
- 304 JFCF/JFCI Alcohol and Other Drugs (AOD) in Schools
- 305 JFCF-R/JFCI-R Alcohol and Other Drugs (AOD) Abuse: Regulations
- 306 JGD/JGE Student Suspension/Expulsion
- 307 JGD-R/JGE-R Student Suspension/Expulsion Regulations
- 308 JGDB Discipline of Students with Disabilities for Infliction of
- 309 Serious Bodily Injury