

## **SUBJECT: SUSPENSION OF STUDENTS**

The Superintendent and/or the Principal may suspend the following students from required attendance upon instruction:

- a) A student who is insubordinate or disorderly; or
- b) A student who is violent or disruptive; or
- c) A student whose conduct otherwise endangers the safety, morals, health or welfare of others.

### **Suspension**

#### *Five (5) School Days or Less*

The Superintendent and/or the Principal of the school where the student attends will have the power to suspend a student for a period not to exceed five (5) school days. In the absence of the Principal, the designated "Acting Principal" may then suspend a student for a period of five (5) school days or less.

When the Superintendent or the Principal (the "suspending authority") proposes to suspend a student for five (5) school days or less, the suspending authority will provide the student with notice of the charged misconduct. If the student denies the misconduct, the suspending authority will provide an explanation of the basis for the suspension.

When suspension of a student for a period of five (5) school days or less is proposed, administration will also immediately notify the parent/person in parental relation in writing that the student *may be* suspended from school.

Written notice will be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within twenty-four (24) hours of the decision to propose suspension at the last known address or addresses of the parents/persons in parental relation. Where possible, notification will also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents/persons in parental relation.

The notice will provide a description of the incident(s) for which suspension is proposed and will inform the student and the parent/person in parental relation of their right to request an immediate informal conference with the Principal in accordance with the provisions of Education Law Section 3214(3)(b). Both the notice and the informal conference will be in the dominant language or mode of communication used by the parents or persons in parental relation. At the informal conference, the student or parent/person in parental relation will be authorized to present the student's version of the event and to ask questions of the complaining witnesses.

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

*Five (5) School Days or Less (Cont'd.)*

The notice and opportunity for informal conference will take place prior to suspension of the student unless the student's presence in the school poses a continuing danger to persons or property or an ongoing threat of disruption to the academic process, in which case the notice and opportunity for an informal conference will take place as soon after the suspension as is reasonably practical.

Teachers will immediately report or refer a student to the Principal or Superintendent for a violation of the *District's Code of Conduct* which falls under the definition of a violent act, as these violations require a minimum suspension period.

*More Than Five (5) School Days*

In situations where the Superintendent determines that a suspension in excess of five (5) school days may be warranted, the student and parent/person in parental relation, upon reasonable notice, will have an opportunity for a fair hearing. At the hearing, the student has protected due-process rights such as the right to be represented by counsel, the right to question witnesses against him or her, and the right to present witnesses and other evidence on his or her behalf.

Where the basis for the suspension is, in whole or in part, the possession on school grounds or school property by the student of any firearm, rifle, shotgun, dagger, dangerous knife, dirk, razor, stiletto or any of the weapons, instruments or appliances specified in Penal Law Section 265.01, the hearing officer or Superintendent will not be barred from considering the admissibility of such weapon, instrument or appliance as evidence, notwithstanding a determination by a court in a criminal or juvenile delinquency proceeding that the recovery of such weapon, instrument or appliance was the result of an unlawful search or seizure.

*Minimum Periods of Suspension*

In accordance with law, Commissioner's Regulations and the *District's Code of Conduct*, minimum periods of suspension will be provided for the following prohibited conduct, subject to the requirements of federal and state law and regulations:

- a) Consistent with the federal Gun-Free Schools Act, any student who is determined to have brought a firearm to school or possessed a firearm on school premises will be suspended for a period of not less than one (1) calendar year. However, the Superintendent has the authority to modify this suspension requirement on a case-by-case basis.

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## **SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

### *Minimum Periods of Suspension (Cont'd.)*

- b) A minimum suspension period for students who repeatedly are substantially disruptive of the educational process or substantially interfere with the teacher's authority over the classroom, provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other state and federal law. The definition of "repeatedly is substantially disruptive of the educational process or substantially interferes with the teacher's authority" be determined in accordance with the Regulations of the Commissioner.
- c) A minimum suspension period for acts that would qualify the student to be defined as a violent student pursuant to Education Law Section 3214(2-a)(a), provided that the suspending authority may reduce such period on a case-by-case basis to be consistent with any other state and federal law.

### **Suspension of Students with Disabilities**

Generally, should a student with a disability infringe upon the established rules of the schools, disciplinary action be in accordance with procedures set forth in the *District's Code of Conduct* and in conjunction with applicable law and the determination of the Committee on Special Education (CSE).

For suspensions or removals up to ten school days in a school year that do not constitute a disciplinary change in placement, students with disabilities must be provided with alternative instruction or services on the same basis as non-disabled students of the same age.

If suspension or removal from the current educational placement constitutes a disciplinary change in placement because it is for more than ten consecutive school days or is a pattern of removals which constitutes a change of placement, a manifestation determination must be made. The District determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

### **Manifestation Determinations**

A review of the relationship between the student's disability and the behavior subject to disciplinary action to determine if the conduct is a manifestation of the disability must be made by a manifestation team immediately, if possible, but in no case later than ten (10) school days after a decision is made:

- a) By the Superintendent to change the placement to an interim alternative educational setting (IAES);

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

**Manifestation Determinations (Cont'd.)**

- b) By an Impartial Hearing Officer (IHO) to place the student in an IAES; or
- c) By the Board, District Superintendent, Superintendent or building principal to impose a suspension that constitutes a disciplinary change of placement.

The manifestation team will include a representative of the District knowledgeable about the student and the interpretation of information about child behavior, the parent and relevant members of the CSE as determined by the parent and the District. The parent must receive written notice prior to the meeting to ensure that the parent has an opportunity to attend. This notice must include the purpose of the meeting, the names of those expected to attend and notice of the parent's right to have relevant members of the CSE participate at the parent's request.

The manifestation team will review all relevant information in the student's file including the student's individualized education program (IEP), any teacher observations, and any relevant information provided by the parents to determine if: the conduct in question was caused by or had a direct and substantial relationship to the student's disability; or the conduct in question was the direct result of the District's failure to implement the IEP.

*Finding of Manifestation*

If it is determined, as a result of this review, that the student's behavior is a manifestation of his/her disability the CSE will conduct a functional behavioral assessment and implement or modify a behavioral intervention plan (BIP).

Functional behavioral assessment (FBA) means the process of determining why the student engages in behaviors that impede learning and how the student's behavior relates to the environment. FBA must be developed consistent with the requirements of Commissioner's Regulations Section 200.22(a) and will include, but not be limited to, the identification of the problem behavior, the definition of the behavior in concrete terms, the identification of the contextual factors that contribute to the behavior (including cognitive and affective factors) and the formulation of a hypothesis regarding the general conditions under which a behavior usually occurs and probable consequences that serve to maintain it.

BIP is a plan that is based on the results of an FBA and, at a minimum, includes a description of the problem behavior, global and specific hypotheses as to why the problem behavior occurs and intervention strategies that include positive behavioral supports and services to address the behavior.

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## **SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

### *Finding of Manifestation (Cont'd.)*

Unless the change in placement was due to behavior involving serious bodily injury, weapons, illegal drugs or controlled substances, the student must be returned to the placement from which the student was removed unless the parent and the District agree to a change of placement as part of the modification of the BIP.

### *No Finding of Manifestation*

If it is determined that the student's behavior is not a manifestation of his or her disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration for which they would be applied to students without disabilities, subject to the right of the parent or person in parental relation to request a hearing objecting to the manifestation determination and the District's obligation to provide a free, appropriate public education to such student.

### *Provision of Services Regardless of the Manifestation Determination*

Regardless of the manifestation determination, students with a disability will be provided the services necessary for them to continue to participate in the general education curriculum and progress toward meeting the goals set out in their IEP as delineated below:

- a) During suspensions or removals for periods of up to ten school days in a school year that do not constitute a disciplinary change in placement, students with disabilities of compulsory attendance age will be provided with alternative instruction on the same basis as nondisabled students. Students with disabilities who are not of compulsory attendance age will be entitled to receive services during suspensions only to the extent that services are provided to nondisabled students of the same age who have been similarly suspended.
- b) During subsequent suspensions or removals for periods of ten consecutive school days or less that in the aggregate total more than ten school days in a school year but do not constitute a disciplinary change in placement, students with disabilities will be provided with services necessary to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP and to receive, as appropriate, an FBA, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. School personnel, in consultation with at least one of the student's teachers, will determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress in meeting the goals set out in the student's IEP.

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

*Provision of Services Regardless of the Manifestation Determination (Cont'd.)*

- c) During suspensions or other disciplinary removals, for periods in excess of ten school days in a school year which constitute a disciplinary change in placement, students with disabilities will be provided with services necessary to enable the student to continue to participate in the general education curriculum, to progress toward meeting the goals set out in the student's IEP, and to receive, as appropriate, an FBA, behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur. The IAES and services will be determined by the CSE.

**Interim Alternative Educational Setting (IAES)**

Students with disabilities who have been suspended or removed from their current placement for more than ten (10) school days may, as determined by the CSE, be placed in an IAES which is a temporary educational setting other than the student's current placement at the time the behavior precipitating the IAES placement occurred.

Additionally, the District may seek an order from a hearing officer for a change in placement of a student with a disability to an appropriate IAES for up to forty-five (45) school days if the District establishes, in accordance with law, that such student is substantially likely to injure himself/herself or others.

There are three (3) specific instances when a student with a disability may be placed in an IAES for up to forty-five (45) school days without regard to a manifestation determination:

- a) Where the student carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the District; or
- b) Where a student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the District; or
- c) Where a student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the District. Serious bodily harm has been defined in law to refer to one of the following:
  - 1. Substantial risk of death;
  - 2. Extreme physical pain; or
  - 3. Protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

**Interim Alternative Educational Setting (IAES) (Cont'd.)**

School function means a school-sponsored or school-authorized extracurricular event or activity regardless of where the event or activity takes place, including any event or activity that may take place in another state.

School premises means in or within any building, structure, athletic playing field, playground, parking lot or land contained within the real property boundary line of a public elementary or secondary school.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student with a disability who violates a code of student conduct.

In all cases, the student placed in an IAES:

- a) Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress towards the goals set out in the student's IEP, and
- b) Receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not recur.

The period of suspension or removal may not exceed the amount of time a non-disabled student would be suspended for the same behavior.

**Suspension from BOCES**

The BOCES Principal may suspend School District students from BOCES classes for a period not to exceed five school days when student behavior warrants such action.

*In-School Suspension*

In-school suspension will be used as a lesser discipline to avoid an out-of-school suspension. The student be considered present for attendance purposes. The program is used to keep each student current with his or her class work while attempting to reinforce acceptable behavior, attitudes and personal interaction.

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## **SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

### **Suspension from BOCES (Cont'd.)**

#### *BOCES Activities*

BOCES activities, such as field trips and other activities outside the building itself, are considered an extension of the school program. Therefore, an infraction handled at BOCES is to be considered as an act within the School District itself.

A student who is ineligible to attend a District school on a given day may also be ineligible to attend BOCES classes. The decision rests with the Superintendent or designee.

### **Exhaustion of Administrative Remedies**

A parent or person in parental relation has the right to appeal the decision of the Building Principal or Superintendent to suspend a student from school, regardless of the length of the student's suspension. A parent or person in parental relation must appeal in writing to the Board of Education prior to commencing an appeal to the Commissioner of Education. The written request to appeal must be received by the Assistant District Clerk within ten days of receipt of the Superintendent's decision letter.

### **Student Discipline Appeal Process**

The parent or person in parental relation must appeal in writing to the School District and the request to appeal must include a brief statement indicating the basis for the challenge. Except as directed by the Superintendent, the filing of an appeal will not in any way delay or stay the enforcement of the indicated disciplinary action.

#### *Suspension Five Days and Under*

A parent or person in parental relation has the right to appeal to the Superintendent, the decision of the Building Principal to suspend a student from school. The appeal must be submitted in writing to the Superintendent's Office no later than five days following the delivery of the decision to the parent. The written appeal must include the basis for the challenge.

The Superintendent will review the parent's written appeal, the building principal's written statement, the suspension letter, and the student's educational record. After which, the Superintendent may request additional information, or render a decision. The Superintendent has the authority to expunge the suspension from the student's disciplinary record, to increase the suspension period for up to no longer than a total suspension

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

**Student Discipline Appeal Process (Cont'd.)**

period of five days, recommend a Superintendent's Hearing for consideration of a long-term suspension, or condition the student's early return on the student's voluntary participation in counseling or specialized classes including anger management, dispute resolution, or substance use or abuse, where applicable. The Superintendent will render a decision as soon as practicable. The parent or person in parental relation and student will be notified in writing of the decision being rendered within five school days.

*Suspension Over Five Days*

A parent or person in parental relation has the right to appeal the decision of the Superintendent to suspend a student from school, to the Board of Education. The appeal must be submitted in writing to the Assistant District Clerk no later than ten days following the delivery of the decision to the parent. The written appeal must include the basis for the challenge. The appeal will be limited to the record from the hearing. No new evidence or information will be considered by the Board during the appeal process.

The Board of Education will review the parent's written appeal, the Superintendent's written statement, and the complete evidentiary record in Executive Session at its next regularly scheduled board meeting held as soon as practicable following receipt of the written appeal. Prior to the Board's review, Board members will receive copies of the audio recording of the hearing and any video evidence, together with copies of all written materials and evidence considered by the hearing officer. The decision of the Board of Education will be based on careful review of the evidentiary record, including a full review during an executive session.

Upon review of the above outlined documentation, the Board of Education may request additional information or render a decision. Unless a majority vote of the Board authorizes attendance by a specific party(ies), the Superintendent or other school personnel and parents will be excluded from attending while during the Board's review of the appeal. The Board will render its decision as soon as practicable. The Assistant District Clerk will notify the parents and student of the decision in writing, within five school days of a rendered decision.

The parent or personal in parental relation has the right to appeal the determination of the Board of Education to the Commissioner of Education within thirty days of the date of the appeal outcome determination letter from the Board President. Further information regarding this procedure may be obtained at [www.counsel.nysed](http://www.counsel.nysed).

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**SUBJECT: SUSPENSION OF STUDENTS (CONT'D.)**

**Procedure After Suspension**

When a student has been suspended and is of compulsory attendance age, immediate steps be taken to provide alternative instruction which is of an equivalent nature to that provided in the student's regularly scheduled classes.

When a student has been suspended, the suspension may be revoked by the Board of Education whenever it appears to be for the best interest of the school and the student to do so. The Board of Education may also condition a student's early return to school and suspension revocation on the student's voluntary participation in counseling or specialized classes, including anger management or dispute resolution, where applicable.

**Restorative Practices**

Restorative practices (RP) is an opportunity to repair harm done and restore relationships of those individuals following an incident or disciplinary measure; and may be used as an alternative to exclusionary disciplinary practices which remove students from the academic environment. The Superintendent will determine if restorative practices are an appropriate action upon review of the circumstances surrounding the Code of Conduct infraction and with input from the student's building administrators. Refer to regulation 7313R *Guidelines for Student Suspensions* for detail regarding restorative practices.

Individuals with Disabilities Education Act (IDEA), 20 USC §§1400 et seq.  
Gun Free Schools Act  
20 USC § 7151, as amended by the Every Student Succeeds Act (ESSA) of 2015  
34 CFR Part 300  
Education Law §§ 310, 2801(1), 3214 and 4402  
Penal Law § 265.01  
8 NYCRR §§ 100.2(1)(2), 200.4(d)(3)(i), 200.22275.16, and Part 201

NOTE: Refer also to Policy #7360 -- Weapons in School and the Gun-Free Schools Act

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