

Board Policy JD: Student Discipline

Status: ADOPTED

Original Adopted Date: 10/01/1990 | Last Revised Date: 12/09/2019 | Last Reviewed Date: 12/09/2019

DISCIPLINARY HEARINGS INVOLVING STUDENTS WITH DISABILITIES

Students with disabilities in Henry County Schools are not exempt from disciplinary action when policies or rules of the Board of Education of Henry County or the State of Georgia are violated. Students who have been identified as having a disability and are receiving special education under the provisions of Section 504 of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA) must be viewed differently in determining the appropriate discipline. Applicable law has provided safeguards for students with disabilities in the application of punishment, especially in the areas of suspension and expulsion. The Board of Education of Henry County will adhere to and enforce these safeguards for students with disabilities in the application of punishment for violation of policies or rules of the Board of Education of Henry County.

A. Definitions

1. "**Disciplinary Action**" is defined as those measures taken as a result of violation of policies and/or rules of the Board of Education of Henry County.
2. "**Disciplinary Hearing**" is defined as a hearing held before a Disciplinary Hearing Officer for the purpose of determining whether or not a student has violated a rule and/or policy of the Board of Education of Henry County. The Disciplinary Hearing is only held when the violation could result in long-term suspension or expulsion of the student.
3. "**Disciplinary Hearing Officer**" is defined as the person appointed by the Board to conduct Disciplinary Hearings in the school system.
4. "**Expulsion**" is defined as expulsion of a student from a public school beyond the current school semester.
5. "**Individual Education Program (I.E.P.) Team**" is defined as a committee consisting of a regular education teacher, a special education teacher, the Local Education Agency (LEA) representative, and the parent, who determine, among other things, whether the misconduct of a student with disabilities is a manifestation of the students' disability. The IEP Team will determine whether the conduct in question is caused by or has a direct and substantial relationship to the student's disability.
6. "**Long-Term Suspension**" is defined as the suspension of a student from a public school for more than ten (10) consecutive school days but not beyond the current school semester.
7. "**Short-Term Suspension**" is defined as the suspension of a student from public school for not more than ten (10) consecutive school days.
8. "**Students with Disabilities**" are defined as students who qualify under Section 504 Of the Rehabilitation Act of 1973 or the Individuals with Disabilities Education Act (IDEA).
9. "**504 Team**" is defined as a committee consisting of a regular education teacher, the Local Education Agency (LEA) representative, and the parent, who determine, among other things, whether the misconduct of a student with disabilities is a manifestation of the students' disability. The 504 Team will determine whether the conduct in question is caused by or has a direct and substantial relationship to the student's disability.

B. Violation of Rules or Policies in which Disciplinary Hearings are not Required

For violations of rules and regulations that do not result in a disciplinary hearing, students with disabilities may be subject to the same disciplinary action(s) as students without disabilities, except suspensions may not exceed ten (10) consecutive school days.

C. Violations of Rules or Policies Normally Requiring a Disciplinary Hearing

If a student with disabilities (504 or IEP) is found in violation of the rules or policies of the Board of Education which requires a Disciplinary Hearing, a manifestation determination shall be made.

1. If the determination is that the behavior of the student was a manifestation of the student's disability, then the Section 504 team must schedule a meeting to review and update the Section 504 plan to support the student's behavioral needs. The student shall be returned to the placement from which he or she was removed. The IEP team shall conduct a functional behavioral assessment and implement the behavior intervention plan or review such and revise as necessary if already in place. The student shall be returned to the placement from which he or she was removed, unless the parent and LEA agree to a change of placement as a part of the modification of the behavioral intervention plan.
2. If the determination is that the behavior of the student was not a manifestation of his or her disability, then a hearing should be scheduled or if simultaneous, the Disciplinary Hearing Officer will make a determination as to whether the student has committed a violation of the rules and/or policies of the Board.
3. If the student is found to have committed a violation of the rules and or policies of the Board, the relevant disciplinary procedures applicable to students without disabilities may be applied in the same manner in which they would be applied to students without disabilities except that the student (a) must 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 toward meeting the goals set out in the student's 504 plan or IEP, and (b) Students with an IEP, receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications that are designed to address the behavior violation so that it does not re-occur.
4. If the Disciplinary Hearing Officer determines the student has not committed the offense charged, the charges will be dismissed and the student will be returned to school.

D. Interim Alternative Educational Setting Placement

If a student with disabilities carries a weapon to school or to a school function; if the student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function; or if the student inflicts serious bodily injury on another person while at school, on school premises or at a school sponsored function, school district personnel may order a change in the placement of the student to (a) an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten (10) school days (to the extent such alternatives would be applied to students without disabilities) or to (b) an appropriate interim alternative educational setting for the same amount of time that a student without disabilities would be subject to discipline, but for not more than forty- five (45) days without regard to whether or not the behavior was a manifestation of disability. The alternative education setting shall be determined by the IEP Team.

E. Appeals

The rulings of the Disciplinary Hearing Officer may be appealed to the Board of Education by filing a written notice of appeal with the Superintendent of Schools within twenty (20) days from the date of the decision.