

Policy JKF- DISCIPLINE OF STUDENTS WITH DISABILITIES

I. Discipline of Students with Disabilities

A. Except as provided in this policy and federal and state law, students with disabilities shall be subject to the School District's Conduct and Discipline Code and its policies and procedures governing the discipline of students.

II. Definitions

A. Student with Disabilities. Students with disabilities shall include those students identified as such under of the Individuals with Disabilities Education Act through the School District's established process, and ALSO any student concerning whom, prior to misconduct leading to proposed discipline:

1. A parent of the student has expressed concern in writing to SUPERVISORY OR ADMINISTRATIVE PERSONNEL OF the School District, OR A TEACHER OF THE STUDENT, that the student IS IN need OF special education services; or
2. THE PARENT OF THE STUDENT REQUESTED AN EVALUATION OF THE STUDENT TO DETERMINE ELIGIBILITY FOR SPECIAL EDUCATION SERVICES; OR

-

3. A teacher OF THE STUDENT or other School District personnel has specifically expressed concern about A PATTERN OF BEHAVIOR DEMONSTRATED BY THE STUDENT DIRECTLY to the director of special education or to other SUPERVISORY personnel (in accordance with the School District's established child find or special education referral system)

EXCEPTION: A STUDENT CANNOT ASSERT ANY OF THE PROTECTIONS DEFINED IN THIS POLICY:

1. If a student has been evaluated and found not to have a disability, or if it has been determined that an evaluation was not necessary, and if the student's parent(s) has been given notice of that evaluation or determination, the student is not a student with a disability
2. THE PARENT HAS NOT ALLOWED THE STUDENT TO BE EVALUATED FOR SPECIAL EDUCATION.
3. THE STUDENT WAS DETERMINED ELIGIBLE FOR SPECIAL EDUCATION, BUT THE PARENT REFUSED SERVICES.

B. Suspension. For purposes of this policy, a suspension shall mean a single suspension of no more than ten (10) school days, or a series of suspensions in a single school year that does not exceed ten (10) school days in total. Suspensions include any removal from a student's usual education program for a part of a school day, regardless of whether the student remains in the school building

C. Expulsion: FOR THE PURPOSES OF THIS POLICY AN EXPULSION SHALL MEAN A DISCIPLINARY PROCEEDING HELD IN ACCORDANCE WITH STATE LAW TO DETERMINE THE APPROPRIATE CONSEQUENCE FOR THE STUDENT'S CONDUCT, WHICH MAY INCLUDE EXCLUSION FROM A STUDENT'S USUAL EDUCATIONAL PROGRAM PROVIDED THE STUDENT'S CONDUCT WAS NOT DEEMED TO BE A MANIFESTATION OF HIS/HER DISABILITY OR 504 STATUS.

D. INTERIM ALTERNATIVE EDUCATIONAL SETTING (IAES): A STUDENT MAY BE REMOVED TO AN IAES AS DETERMINED BY THE IEP TEAM FOR 45 SCHOOL DAYS WITHOUT REGARD TO WHETHER THE BEHAVIOR IS DETERMINED TO BE A MANIFESTATION OF THE STUDENT'S DISABILITY IF THE STUDENT:

A) CARRIES OR POSSESSES A WEAPON AT SCHOOL, ON SCHOOL GROUNDS OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY.

B) KNOWINGLY POSSESSES OR USES ILLEGAL DRUGS OR SELLS OR SOLICITS THE SALE OF A CONTROLLED SUBSTANCE WHILE AT SCHOOL, ON SCHOOL GROUNDS OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY

C) INFLICTS A SERIOUS BODILY INJURY UPON ANOTHER PERSON WHILE AT SCHOOL, ON SCHOOL PREMISES, OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY. SERIOUS BODILY INJURY IS DEFINED AS AN INJURY THAT RESULTS IN SUBSTANCIAL RISK OF DEATH, EXTREME PHYSICAL PAIN, PROTRACTED OR OBVIOUS DISFIGUREMENT, OR PROTRACTED LOSS OR IMPAIRED FUNCTIONING OF A BODILY MEMBER, ORGAN OR MENTAL FACULTY.

THE DISTRICT SHALL NOTIFY THE PARENTS OF THE DISCIPLINARY ACTION TO TAKE PLACE AND OF ALL PROCEDURAL SAFEGUARDS NO LATER THAN THE DATE ON WHICH THE DECISION TO TAKE DISCIPLINARY ACTION IS MADE.

III. Temporary Suspensions

A. A temporary suspension of a student with a disability may be conducted in the same manner as for a student without a disability FOR A PERIOD NOT TO EXCEED 10 CONSECUTIVE OR CUMULATIVE DAYS unless the suspension is prohibited by the student's Individualized Education Program (IEP).

B. The Director of Special Education or his or her designee shall be notified of any long term suspension prior to the time it occurs or, if such notification is not possible, as soon

following the suspension as is practicable. SUSPENSIONS OF STUDENTS WITH DISABILITIES EXCEEDING 10 SCHOOL DAYS WILL NECESSITATE A MANIFESTATION DETERMINATION AND WILL REQUIRE THE PROVISION OF EDUCATIONAL SERVICES, SO AS TO ENABLE THE STUDENT TO CONTINUE TO PARTICIPATE IN THE GENERAL EDUCATION CURRICULUM, AND TO PROGRESS TOWARDS THE GOALS SET OUT IN THE IEP..

IV. Expulsions

A. If an expulsion is being considered for a student with a disability:

1. The parents shall be notified of the decision to take this action and of all procedural safeguards accorded by law not later than the date on which this decision is made; and
2. The student shall be placed on long-term suspension; and
3. Immediately, if possible, but not later than ten (10) school days after the student is suspended, the IEP team and other qualified District personnel shall review the DIRECT relationship between the child's disability and his or her conduct IN A ("Manifestation Determination Review")

B. Manifestation Determination Review

AT THE MANIFESTATION DETERMINATION REVIEW, THE PRINCIPAL/DESIGNEE, THE PARENT(S) AND RELEVANT MEMBERS OF THE IEP TEAM (AS DETERMINED BY THE PARENT AND DISTRICT) SHALL REVIEW:

- A) ALL RELEVANT INFORMATION IN THE STUDENT'S FILE,
- B) THE STUDENT'S IEP,
- C) ANY TEACHER OBSERVATIONS, AND
- D) ANY RELEVANT INFORMATION PROVIDED BY THE PARENT(S)

THE TEAM MUST DETERMINE WHETHER:

- A) THE CONDUCT IN QUESTION WAS CAUSED BY, OR HAD A DIRECT AND SUBSTANTIAL RELATIONSHIP TO THE STUDENT'S DISABILITY; OR
- B) IF THE CONDUCT IN QUESTION WAS THE DIRECT RESULT OF THE SCHOOL DISTRICT'S FAILURE TO IMPLEMENT THE IEP.

BEHAVIOR IS NOT A MANIFESTATION OF HIS/HER DISABILITY IF:

THE SCHOOL DISTRICT PRINCIPAL/DESIGNEE, THE PARENTS AND RELEVANT MEMBERS OF THE IEP TEAM DECIDE, THAT THE ANSWER TO **BOTH A) AND B) IS NO.**

THEREAFTER, SCHOOL OFFICIALS MAY APPLY THE RELEVANT DISCIPLINARY PROCEDURES TO THE STUDENT IN THE SAME MANNER AND FOR THE SAME DURATION AS THE PROCEDURES WOULD BE APPLIED TO STUDENTS WITHOUT DISABILITIES, INCLUDING SUSPENSION AND

EXPULSION IF APPLICABLE. THE STUDENT SHALL RECEIVE EDUCATIONAL SERVICES AS DETERMINED BY THE STUDENT'S IEP TEAM TO ENABLE HIM/HER TO CONTINUE TO PARTICIPATE IN THE GENERAL EDUCATION CURRICULUM, TO CONTINUE TO PROGRESS TOWARDS MEETING THE GOALS SET OUT IN THE IEP AND TO RECEIVE, AS APPROPRIATE, BEHAVIORAL INTERVENTION SERVICES AND MODIFICATIONS TO BEHAVIOR PLANS, AS NECESSARY, TO PREVENT RECURRENCE OF THE BEHAVIOR VIOLATION.

IT MUST BE DETERMINED THAT THE STUDENT'S CONDUCT WAS A MANIFESTATION OF HIS/HER DISABILITY IF:

THE SCHOOL DISTRICT PRINCIPAL/DESIGNEE, THE PARENTS AND RELEVANT MEMBERS OF THE IEP TEAM DETERMINE, BY CONSENSUS, THAT THE ANSWER TO **EITHER** A) OR B) IS **YES**. EXCEPT FOR SITUATIONS WHERE THE STUDENT HAS BEEN PLACED IN AN INTERIM ALTERNATIVE EDUCATIONAL SETTING (IAES) BY THE IEP TEAM FOR SERIOUS VIOLATIONS AS DESCRIBED BELOW, THE STUDENT MUST BE RETURNED TO HIS/HER USUAL EDUCATIONAL SETTING IMMEDIATELY UNLESS THE PARENT AND IEP TEAM AGREE TO CHANGE THE PLACEMENT. FURTHERMORE, THE IEP TEAM SHALL CONDUCT A FUNCTIONAL BEHAVIOR ASSESSMENT (FBA), AND IMPLEMENT A BEHAVIORAL INTERVENTION PLAN (BIP) FOR THE STUDENT UNLESS A FBA WAS DONE PRIOR TO BEHAVIOR THAT RESULTED IN THE DETERMINATION. IF A BIP HAS ALREADY BEEN DEVELOPED, IT WILL BE REVIEWED AND MODIFIED, AS NECESSARY, TO ADDRESS THE BEHAVIOR AT ISSUE.

V. WEAPONS AND DRUGS AND SERIOUS BODILY INJURY

WITHOUT REGARD TO WHETHER THE BEHAVIOR IS DETERMINED TO BE A MANIFESTATION OF THE STUDENT'S DISABILITY IF THE STUDENT:

A) CARRIES OR POSSESSES A WEAPON AT SCHOOL, ON SCHOOL GROUNDS OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY.

B) KNOWINGLY POSSESSES OR USES ILLEGAL DRUGS OR SELLS OR SOLICITS THE SALE OF A CONTROLLED SUBSTANCE WHILE AT SCHOOL, ON SCHOOL GROUNDS OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY.

C) INFLICTS A SERIOUS BODILY INJURY UPON ANOTHER PERSON WHILE AT SCHOOL, ON SCHOOL PREMISES, OR AT A SCHOOL FUNCTION UNDER THE JURISDICTION OF THE LOCAL OR STATE EDUCATION AGENCY. FOR THE PURPOSE OF THIS POLICY, A SERIOUS BODILY INJURY HAS THE MEANING OF AN INJURY THAT

RESULTS IN SUBSTANTIAL RISK OF DEATH, EXTREME PHYSICAL PAIN, PROTRACTED OR OBVIOUS DISFIGUREMENT, OR PROTRACTED LOSS OR IMPAIRED FUNCTIONING OF A BODILY MEMBER, ORGAN OR MENTAL FACULTY.

VII. Students Identified as Disabled under Section 504

- A. The following shall apply to students who do not qualify as a "student with a disability" for purposes of the Individuals with Disabilities Education Act, but who do qualify as a "student with a disability" for purposes of Section 504 of the Rehabilitation Act of 1973, as amended ("Section 504 students"):
- B. Temporary Suspensions
 1. A temporary suspension of a Section 504 student may be conducted as for a student without a disability unless prohibited by the student's Section 504 Plan
 2. The Section 504 Compliance Officer or his or her designee shall be notified of the suspension before it occurs or as soon thereafter as is possible
- C. Expulsions
 1. If an expulsion is being considered for a Section 504 student:
 - a. The parents shall be notified of all procedural safeguards accorded by law; and
 - b. Immediately, if possible, but not later than ten (10) school days after the decision to take this action is made, the Section 504 team shall conduct a Section 504 Manifestation Determination Review to review the relationship between the child's disability and the behavior which is subject to disciplinary action.
- D. Section 504 Manifestation Determination Review
 1. AT THE MANIFESTATION DETERMINATION REVIEW, THE PRINCIPAL/DESIGNEE, THE PARENT AND RELEVANT MEMBERS OF THE SECTION 504 TEAM (AS DETERMINED BY THE PARENT AND THE DISTRICT) SHALL CONSIDER: :
 - . RELEVANT INFORMATION IN THE STUDENT'S CUMULATIVE RECORD;
 - B. THE STUDENT'S SECTION 504 STUDENT ACCOMMODATION PLAN;
 - C ANY TEACHER OBSERVATIONS; AND
 - D. ANY RELEVANT INFORMATION SUPPLIED BY THE PARENTS.
 - 2 THE TEAM MUST DETERMINE WHETHER:

- A) THE CONDUCT IN QUESTION WAS CAUSED BY OR HAD A DIRECT AND SUBSTANTIAL RELATIONSHIP TO THE STUDENT'S DISABILITY, OR
- B) THE CONDUCT IN QUESTION WAS THE DIRECT RESULT OF A FAILURE TO IMPLIMENT THE SECTION 504 STUDENT ACCOMMODATION PLAN

THE CONDUCT MUST BE DETERMINED TO BE A MANIFESTATION OF THE STUDENT'S DISABILITY IF THE PRINCIPAL, THE PARENT AND RELEVANT MEMBERS OF THE SECTION 504 TEAM DETERMINE THAT A CONDITION IN EITHER PARAGRAPH A) OR B) WAS MET. EXCEPT AS PROVIDED IN SECTION II, PARAGRAPH E, THE STUDENT MAY NOT BE EXPELLED AND SHALL REMAIN IN HIS/HER CURRENT PLACEMENT UNLESS:

- I. THE STUDENT'S PARENT/GUARDIAN CONSENTS TO A CHANGE IN PLACEMENT; OR
- II. THE SCHOOL DISTRICT OBTAINS A CHANGE OF PLACEMENT AS PROVIDED BY LAW

IF THE PRINCIPAL, THE PARENT AND RELEVANT MEMBERS OF THE SECTION 504 TEAM DETERMINE THAT THE CONDITIONS DEFINED IN PARAGRAPH A) AND B) WAS NOT MET AND THAT THE CONDUCT WAS NOT A MANIFESTATION OF THE STUDENT'S DISABILITY, SCHOOL OFFICIALS MAY APPLY THE RELEVANT DICIPLINARY PROCEDURES TO THE STUDENT IN THE SAME MANNER AND FOR THE SAME DURATION AS THE PROCEDURES WOULD BE APPLIED TO STUDENTS WITHOUT DISABILITIES INCLUDING SUSPENSION AND EXPUSION IF APPLICABLE.

FURTHERMORE, THE SECTION 504 TEAM WILL CONDUCT A FUNCTIONAL BEHAVIORAL ASSESSMENT (FBA) OF THE STUDENT UNLESS AN FBA HAS BEEN CONDUCTED AND WILL DEVELOP A BEHAVIORAL INTERVENTION PLAN (BIP). IF A BIP ALREADY HAS BEEN DEVELOPED THE SECTION 504 TEAM WILL REVIEW AND MODIFY THE ONE ALREADY IN EXISTENCE, AS NECESSARY, TO ADDRESS THE STUDENT'S BEHAVIOR.

Adopted: June 16, 2000

REVISED: _____

LEGAL REFS: C.R.S. 22-33-106(1)(C)
C.R.S 22-20-101 *ET SEQ. (EXCEPTIONAL CHILDREN'S EDUCATION ACT)*

20 U.S.C. 1401 *ET SEQ. (INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004)*

APPENDIX

05-19

VI-A-2

CROSS REFS.: JK STUDENT DISCIPLINE