Series 5000: Students, Curriculum, and Academic Matters

5200 Student Conduct and Discipline

5206B Student Discipline - Students with Disabilities

The District will follow all applicable state and federal laws related to disciplining students with disabilities. Students with disabilities are entitled to all due process protections afforded to other students pursuant to Policy 5206A. For students with disabilities, the additional procedures and protections in this Policy also apply.

A. Change of Placement

On the date on which the District decides to: (1) expel a student with a disability; (2) remove a student with a disability for more than 10 consecutive school days; (3) remove a student with a disability for more than 10 cumulative school days in the same school year if a pattern of removals exists; or (4) place a student with a disability in an interim alternative educational setting (explained below), the District will notify the student's Parent of that decision, will provide the Parent a copy of applicable procedural safeguards, and will conduct a manifestation determination review (MDR) within 10 school days.

B. Manifestation Determination Review

The MDR team, which includes the Parent and relevant members of the student's IEP or Section 504 Team, will determine whether the student's conduct was a manifestation of the student's disability.

1. Conduct Was a Manifestation

If the conduct was a manifestation of the student's disability, the District must immediately return the student to the placement from which the student was removed unless the Parent and the District agree to change the placement or the student is placed in an interim alternative educational setting for up to 45 school days (see section C).

For a student with an IEP, if the conduct was a manifestation of the student's disability, the District must either: (1) conduct a functional behavioral assessment (unless one was previously conducted) and implement a behavior intervention plan for the student; or (2) if a behavior intervention plan was already developed, review and modify the behavior intervention plan to address the conduct at issue.

If the conduct was a manifestation because the District failed to implement the student's IEP or 504 Plan, the District must take immediate steps to remedy the implementation failure.

2. Conduct Was Not a Manifestation

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If the conduct was not a manifestation of the student's disability, the District may proceed with the suspension or expulsion by adhering to the due process requirements in Policy 5206A.

If the student has an IEP, the District must, as appropriate, conduct a functional behavioral assessment and develop a behavior intervention plan or other behavioral modifications for the student to prevent the behavior from recurring.

C. Interim Alternative Educational Setting ("IAES")

The District may remove a student with a disability who engages in any of the following conduct to an IAES for not more than 45 school days, even if the conduct is a manifestation of the student's disability:

1. carrying a weapon to or possessing a weapon at school, on school premises, or to or at a school function;

2. knowingly possessing or using illegal drugs, or selling or soliciting the sale of a controlled substance, while at school, on school premises, or at a school function; or

3. inflicting serious bodily injury upon another person while at school, on school premises, or at a school function.

For purposes of this section only, a "weapon" means a device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. A "weapon" does not include a pocket knife with a blade of less than 2½ inches in length.

No student with a disability may be removed to an IAES without first receiving the due process rights afforded under Policy 5206A.

If the student has an IEP, the District must, as appropriate, conduct a functional behavioral assessment and develop a behavior intervention plan or other behavioral modifications for the student to prevent the behavior from continuing.

D. Dangerous Students

The District may remove a dangerous student from school as permitted by law. District administrators must follow all state and federal laws governing the removal of dangerous students with disabilities.

E. Services During Disciplinary Removal or IAES

A student who is eligible for services under the Individuals with Disabilities Education Act (IDEA) who is expelled or suspended for more than 10 school days during a school year or placed in a 45-school day IAES is entitled to receive programs and services, although in a setting other than the regular school setting, that are sufficient to enable the student to participate in the general

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education curriculum and to progress toward meeting the goals contained in the student's IEP.

F. Students Not Yet IDEA Eligible

A student who is not currently identified as a student with a disability under the IDEA is entitled to the rights and procedures provided to students with disabilities if the District had knowledge that the student was a student with a disability before the misconduct occurred. The District is deemed to have knowledge that a student was a student with a disability only if: (1) the student's Parent expressed concern in writing to a school administrator that the student needed special education or related services; (2) the student's Parent requested a special education evaluation; or (3) the student's teacher or other District personnel expressed specific concerns about a pattern of behavior demonstrated by the student to the District's special education director or to other supervisory personnel. The District will not be deemed to have knowledge that the student was a student with a disability if: (1) the student's Parent refused to allow the District to evaluate the student; (2) the student's Parent refused special education for the student; or (3) the student was previously evaluated and determined to not be a student with a disability.

This Policy does not provide a comprehensive description of the disciplinary rights and procedures due to students with disabilities. District administrators must ensure that the rights of students with disabilities are protected and all procedures applicable to students with disabilities are followed as required by the IDEA, Section 504 of the Rehabilitation Act, state law, and Board Policy.

Legal authority: 20 USC 1401 et seq., 7151; 29 USC 705, 794-794b; MCL 380.1308-1310, 380.1310a, 380.1310c, 380.1310d, 380.1311, 380.1311a, 380.1312, 380.1313

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