



## The Laboratory Charter School of Communication and Languages

### **Progressive Discipline Framework**

The progressive discipline framework is divided into four levels. Each level represents progressively more serious acts of inappropriate behaviors and consequences. The level of discipline imposed is based on the severity of the misbehavior.

#### **Level I Discipline**

Level I discipline is used for minor acts of misconduct, which interfere with orderly school procedures, school functions, or student's own learning process. Students may be disciplined by the professional staff member involved.

Professional staff members may utilize any of the discipline management techniques appropriate for the situation, including, but not limited to the following:

1. Complete a Behavior Concern to be signed by parent
2. Call home to parent
3. Loss of free choice time
4. Isolation during lunch
5. Classroom isolation
6. Parent shadowing
7. Student participation in conference with parent/guardian and teacher
8. Participation in a school service project which enables the student to be engaged in behavior that supports our Caring School Community
9. \*Development of a written or graphic representation that reflects understanding of specific misbehavior, the nature of the expected behavior in a Caring School Community

#### **Level II Discipline**

Level II discipline offenses are intermediate acts of misconduct that require administrative intervention. These acts include, but are not limited to, repeated acts of minor misconduct and misbehaviors directed against people or property, but which do not seriously endanger the health, safety or well-being of others. Consideration of necessary behavior support services should be given, if not already provided. Signed Behavior Concern forms and a listing of phone call home dates are submitted to the office.

Students guilty of a Level II offense may receive any of the discipline management techniques appropriate for the situation as determined by administration, including, but not limited to the following:

1. Student participation in conference with parent/guardian, teacher and/or administration via the Mandatory Parent/Guardian Meeting invitation.

2. Restriction from programs and special assemblies
3. Assignment to lunch detention
4. Partial or full day school suspension
5. Participation in cleaning/repair of damage caused to the school related environment
6. Saturday School Detention
7. Financial restitution for repair or replacement of any damage caused to the school related environment or materials.
8. \*Development of a written or graphic representation that reflects understanding of specific misbehavior, the nature of the expected behavior, and the related character trait(s)
9. Participation in a school service project which enables the student to be engaged in Caring School behavior
10. Any other disciplinary technique that positively promotes the school's goals and desired Caring School behavior.

### **Level III Discipline**

Level III discipline offenses are serious acts of misconduct including, but not limited to, repeated misbehavior that is similar in nature, serious disruption of the school environment, threats to health, safety, or property, and other acts of serious misconduct. These offenses must be reported to the administration. Offenses that threaten the health, safety, or well-being of others may result in the assignment of multiple days of school suspension, pending disciplinary investigation of the allegations. Student and parent/guardian participation in a conference with the administration is an element of all discipline actions in this category, even if such a conference has previously occurred. Initiation of necessary behavior support services will be given, if not already provided.

A Serious Behavior form, any new Behavior Concern forms and phone call(s) home documentation are submitted to the office.

Student guilty of a Level III offense may receive any discipline management technique appropriate for the situation as determine by the administration, including but not limited to the following:

1. Restriction from programs and special assemblies
2. Full day out of -school suspension; Number of days as determined by administration
3. Saturday Detention
4. Participation in the cleaning or repair of any damage caused to the school-related environment
5. Financial restitution for the repair or replacement of any damage caused to the school-related environment or materials.
6. \*Development of a written or graphic representation that reflects understanding of the specific misbehavior, the nature of the expected behavior, and related Caring School behaviors
7. Participation in a school service project which enables the student to be engaged in the desired Caring School behaviors
8. Any disciplinary technique that positively promotes the student code of conduct, and desired Caring School behaviors

#### Level IV Discipline

Level IV discipline offenses represent the most serious acts of misconduct. These offenses must be immediately reported to administration. These violations are so serious that they may require use of outside agencies and/or law enforcement. Such acts may result in criminal penalties being imposed. Any misconduct that threatens the health, safety, or well-being of others may result in immediate suspension of the student from school and/or school sponsored activities, pending disciplinary investigation of the allegations. Student and parent/guardian participation in a conference with the school administration is an element of all discipline actions in this category, even if such a conference has previously occurred. Initiation of support services should be given if not already provided.

Certain behaviors have been identified that require an automatic office referral. In these cases, teachers should fill out a Serious Behavior form without needing to go through the steps of the classroom discipline procedure. It is the discretion of the teacher if the student is sent to the office immediately or the referral is submitted after class. This list is not all inclusive:

- ✓ Fighting or confrontational behavior
- ✓ Profanity
- ✓ Racial Slurs in class
- ✓ Refusing to surrender electronic devices
- ✓ Vandalism or defacing school property
- ✓ Non-compliance/defiance

Students guilty of a Level IV offense may receive any of the discipline management techniques appropriate for the situation as determined by the administration, including but not limited to the following:

1. Restriction from programs and special assemblies
2. Suspension from school; Number of days determined by administration and county policy
3. Participation in the cleaning or repair of any damage caused to the school-related environment
4. Financial restitution for the repair or replacement of any damage caused to the school-related environment or materials
5. \*Development of a written or graphic representation that reflects understanding of the specific misbehavior, the nature of the Caring School behavior
6. Appearance before the Disciplinary Community for Due Process proceedings

Disruptive Behaviors	Consequence Levels			
	Level I	Level II	Level III	Level IV
Failure to follow classroom rules/Creating disruption	✓			
Failure to carry hall-pass	✓			
Truancy/Excessive tardiness/Cutting class	✓			
Possession of inappropriate	✓			

**Commented [c1]:** Copied directly from PSD Code of Conduct; did not include Level 5 which includes expulsion referral

personal items				
Profane or obscene language or gestures	✓			
Inappropriate use of an electronic device	✓	✓	✓	✓
Mutual fighting (without serious bodily injury)	✓	✓		
Forgery of administrator, teacher, or parent's guardian's signature	✓	✓		
Alteration of grade reporting, excuse notes, and/or school documents	✓	✓	✓	✓
Destruction and/or theft of property (less than \$500)	✓	✓	✓	
Harassment (including Sexual Harassment)	✓	✓	✓	✓
Bullying/cyber-bullying	✓	✓	✓	✓
Intimidation	✓	✓	✓	✓
Sexual Act (consensual)	✓	✓	✓	
Threatening students/staff with aggravated assault		✓	✓	✓
Destruction and/or theft of property (totaling \$500 or more)		✓	✓	✓
Breaking and entering school property		✓	✓	✓
Robbery		✓	✓	✓
Extortion		✓	✓	✓
Mutual fighting (with documented serious bodily injury)		✓	✓	✓
Simple assault on a school community member		✓	✓	✓
Possession of alcohol and/or drugs		✓	✓	✓
Possession and/or use of fireworks, incendiary devices and/or explosives		✓	✓	✓
Instigation and/or participation in a group assault		✓	✓	✓
Aggravated Assault		✓	✓	✓
Sexual act (non-consensual)		✓	✓	✓
Possession of a weapon				✓
Reckless endangerment		✓	✓	✓

**\*Please be advised that this IS NOT an all-inclusive list, as there may be infractions that are not listed but rise to the level of a suspension, expulsion, and/or police or legal involvement. Additionally, Consequence Levels are not mutually exclusive.**

**Commented [c2]:** add additional language for list is not inclusive and some infractions may result in suspension.

## **Suspensions**

### **Level 4: Immediate Referral**

1. Fighting or confrontational behavior
2. Profanity or obscenity towards any staff member.
3. Threats – any overt or verbal action towards personnel.
4. Racial Slurs
5. Refusing to surrender electronic device
6. Disrespect to any staff member.
7. Smoking in the building or on school grounds.
8. Leaving school grounds without permission.
9. Cutting class.
10. Leaving class without permission.

**A student is subject to immediate suspension, expulsion and arrest for the following reasons:**

1. Forgery.
2. Destruction, vandalism, graffiti, and/or theft of school property.
3. Pulling fire alarms.
4. Assault on another student or staff member.
5. Possession and/or use of illegal weapons.
6. Possession use and sale of marijuana or any illegal drugs.
7. Pornography.

**Violations of these rules can result in:**

1. Suspension from school for up to 10 days.
2. Placement in an alternative school.
3. Suspension of extracurricular privileges.
4. Loss of eligibility for awards.
5. Exclusion from special activities such as trips, dances, and move-up day exercises.
6. Recommendation for transfer to another educational environment or expulsion from school.

## **BULLYING POLICY**

Pursuant to Act 61 of 2008 each school entity must adopt a policy or amend its existing policy relating to bullying and incorporate the policy into the school entity's Code of Student Conduct required under 22 Pa Code Section 12.3(c). The Laboratory Charter School strives to provide a safe, positive learning experience for its students. Therefore, it shall be the policy of LAB to maintain an educational environment in which bullying and cyber bullying in any form are not tolerated.

**Cyber bullying** includes, but is not limited to, the following misuses of technology: harassing, teasing, intimidating, threatening, or terrorizing another student or staff member by way of any technological tool, such as sending or posting inappropriate or derogatory email messages, instant messages, text messages, digital pictures or images, or website postings (including blogs); **Bullying** shall mean unwelcome verbal, written, or physical conduct directed at a student by another student; that has the effect of:

1. Physically, emotionally or mentally harming a student;
2. Damaging, extorting or taking a student's personal property;
3. Placing a student in reasonable fear of physical, emotional or mental harm;
4. Placing a student in reasonable fear of damage to or loss of personal property; or
5. Creating an intimidating or hostile environment that substantially interferes with a student's educational opportunities.

Students or parents should report bullying or cyber bullying complaints to their teacher or any staff member. Any teacher or staff member that receives a bullying or cyber bullying complaint shall gather information or seek administrative assistance to determine if bullying or cyber bullying has occurred. After the information has been gathered, the Principal shall be notified of the complaint. The Principal will determine the need for further investigation or for appropriate intervention, which may result in administrative discipline to ensure that the conduct ceases.

### **Consequences:**

The Laboratory Charter School does not tolerate bullying of any type whether it is conveyed verbally or physically, electronically or written. A student who violates this code will be subject to severe consequences to include: Parental conference, loss of school privileges, exclusion from school sponsored activities, suspension from school, expulsion, counseling, therapy outside of school, and referral to law enforcement officials.

## **Act 26 Expulsions**

If a student is found with a weapon in his or her possession, on school property, or on the way to or from school, the student must be recommended for expulsion. If a student is ten years or older, the police must be called.

Act 26 Violations (K – 12): Act 26 of 1995, amended Pennsylvania's School Code Pennsylvania law that requires the expulsion for at least one year of any student who possesses a weapon on school property, at a school function, or on a bus to and from school. A weapon is defined by Pennsylvania school law as "any knife, cutting tool, nunchaku, firearm, shotgun, rifle, and

(anything else) capable of inflicting serious bodily injury”. This definition may include box cutters, kitchen knives, pen – knives on key – chains, and other common household items. Act 26 requires that the police are notified and the student is entitled to a formal hearing.

## **Student Offenses and Discipline Procedures for Students with IEPs and 504 Agreements**

Exclusion of students shall be conducted in accordance with the Pennsylvania Public School Code of 1949, which provides:

Section 1318. Suspension and Expulsion of Pupils. Every principal or teacher in charge of a public school may temporarily suspend any pupil on account of disobedience or misconduct, and any principal or teacher suspending any pupil shall promptly notify the District CEO or Secretary of the Board of School Directors. The Board may, after a proper hearing, suspend such child for such time as it may determine or may permanently expel him/her. Such hearings, suspension, or expulsion may be delegated to a duly authorized committee of the Board.

The following guidelines are established to ensure uniformity of procedure and to comply with Commonwealth directives regarding the exclusion of students from the Laboratory Charter School. (Regulation of the State Board of Education of Pennsylvania for students with IEPs, 504 agreements, and students thought to be eligible, Chapter 12, amended December 2005). Exclusion from school may take the form of suspension or expulsion.

### **Definitions**

Suspension — Suspension is exclusion from school for a period of one (1) to ten (10) consecutive school days.

Expulsion - Expulsion is exclusion from school by the Board of School Directors for a period exceeding ten (10) school days and may be permanent expulsion from school rolls. All expulsions require a prior formal hearing by the Board of School Directors in accordance with procedures established by the Office of the CEO, the Board Policy Statement and the CEO’s Administrative Policy regarding “Expulsion Hearings” in this section, and regulations of the State Board of Education of Pennsylvania, Chapter 12.

Self—Discipline - The ability to control one’s behavior in order to conform to school rules and other age-appropriate and desirable behavioral norms.

Temporary Alternative Educational Placement — A temporary setting within the school for a period of one (1) to three (3) consecutive school days where the student continues to receive educational services according to his/her IEP.

### **Guidelines for Developing Self-Discipline**

- The development and maintenance of self-discipline is an integral aspect of learning.
- Each professional staff member, as a part of the normal teacher—learning process, shall develop and emphasize self-disciplinary procedures with students.

- Each staff member is responsible for contributing to the maintenance of these standards of behavior which are conducive to learning not only in the classroom but in corridors, the cafeteria and throughout the school site.

### **Disciplinary Action**

#### **Building Level**

- Under these District wide guidelines, basic standards of behavior shall be developed and then reviewed annually within each building of the District.
- Appropriate and consistent action shall be taken not only in the classroom, but throughout the entire building to maintain these standards. Punishment (or consequences) will be proportional to the severity of the infraction with consideration of academic consequences associated with discipline.
- Building administrators shall be responsible for maintaining such standards building-wide.
- The individuality of each student and each incident shall be taken into consideration in any disciplinary action.
- If a student is suspended from school, a building administrator shall contact the parents or guardian by telephone or face-to-face prior to re-admittance of the student.

#### **Suspension Procedures: General**

The student shall be told the reason for the suspension and shall be afforded the opportunity to respond to the charges before the suspension becomes effective. This shall be the responsibility of the assistant principal or principal suspending the student. The reason for the suspension also shall be stated in written correspondence to the home.

Prior notice of the intended suspension need not be given when it is clear that the health, safety, or welfare of the school community is threatened.

The student and parents/guardians are notified of the suspension in the following manner:

The student is given a copy of the suspension letter and instructed to hand carry it home to the parents/guardians, where appropriate.

The appropriate assistant principal/principal personally contacts by telephone the parents/guardians, if possible.

If the assistant principal/principal contacts the parent by telephone, a letter is sent via regular mail or electronic mail to the parent on the same day the student is suspended. A copy of that letter must be forwarded to the individual with student attendance reporting responsibilities: student's file, the Pupil Services/Special Education Office, and others at the discretion of the principal.

If the assistant principal/principal is unable to contact the parents/guardians by telephone, a letter is sent by the school via regular mail or electronic mail to the parents/guardians on the same day the child



is suspended. A copy of that letter must be forwarded to the individual with student attendance reporting responsibilities; student's file; the Pupil Services/Special Education Office, and others at the discretion of the principal.

Students shall be permitted to make up exams and work missed while suspended.

**One-Day to Three-Day Suspensions (One (1) to Three (3) School Days):**

1. The suspension shall not be for a period longer than three (3) school days, unless the infraction involves a serious or repeated offense.
2. In the case of a less serious or isolated offense, the suspension letter shall indicate that a conference with the parents/guardians is to be arranged prior to readmission and that it is the responsibility of the parents/guardians to contact the school to arrange the conference.
3. If during the conference the principal/assistant principal determines that further suspension and/or referral to the Office of the CEO for possible expulsion proceedings is appropriate, then the principal/assistant principal shall schedule a principal's conference and offer to hold the conference within five (5) school days of the initial suspension date. At the conference, the principal shall generate the extended suspension letter, attached hereto as Attachment 1b, and deliver it to the parents/guardians before they leave the conference, if possible. If the principal is unable to deliver the letter to the parents/guardians at that time, then the letter shall be hand delivered, if possible, and sent via regular mail or email.
4. Students shall be permitted to make up exams and work missed while suspended.

**Extended Suspension or Expulsion**

Recommendation for suspension or expulsion when made to the CEO for action shall include:

- A chronology of the incident(s).
- Statement(s) by those involved in crucial incident(s).
- Statement(s) of student status from educators currently involved with student(s).
- A review and recommendation by the principal and Assistant CEO.

As soon as extended suspension or expulsion is considered as a possible course of action, the principal shall consult with the CEO and request legal guidance on the matter.

The CEO or designee shall review such information, including the student's file, and recommend to the Board the setting of a hearing to consider possible expulsion from school.

**Suspension Procedures: (Four (4) to Ten (10) School Days)**

1. Suspension beyond three (3) school days shall generally be reserved for more serious or persistent infractions of school rules. Such suspensions may be assigned only by a building principal or assistant principal in the principal's absence.

2. After reviewing a three (3) school day suspension, the principal may consider the offense serious enough to warrant further discipline, the principal may extend the suspension up to ten (10) school days and/or refer the matter to the CEO for possible expulsion proceedings. If the principal extends the suspension and/or refers the matter to the CEO, the principal must offer an informal hearing to the student and parents/guardians within five (5) school days after the suspension. Notification procedures as outlined above in Suspension Procedures: General (#2A through D) are to be followed.
3. To ensure due process, the following requirements are to be observed with respect to the informal hearing:
  - A. The principal must present to the parents/guardians and to the student a notification for the informal hearing. A copy of that letter must be forwarded to the individual with student attendance reporting responsibilities; student's file; the Special Education Office, if the student is receiving special education services or thought to be an eligible student; and others at the discretion of the principal.
  - B. Sufficient notice of the time and place of the hearing is to be given. Attempts must be made to arrange such meetings for mutually convenient times.
  - C. A student must be given the right to cross-examine any witnesses presented by the principal.
  - D. The student must be extended the right to speak and produce witnesses.
  - E. As this is an informal hearing, tape recording of the meeting is not permitted. There is no entitlement to legal representation at the hearing for either the student or the school.
  - F. If, after the informal hearing, the principal deems it advisable to extend the suspension up to ten (10) school days and/or refer the matter to the CEO for possible expulsion proceedings, the principal may do so. The action must be confirmed in writing by mail or electronic mail to the parents/guardians. A copy of that correspondence must be forwarded to the individual with student attendance reporting responsibilities; student's file; the Pupil Services/Special Education Office, and others at the discretion of the principal.
4. Suspensions may not be made to run consecutively beyond the ten (10) school day period, unless the principal determines that a student's presence in his/her normal class would constitute a threat to the health, safety, morals, or welfare of others and it is not possible to hold a formal hearing within the period of a suspension, as long as the formal hearing is not unreasonably delayed. The principal may request a readmission conference at the termination of the suspension.
5. Students shall be permitted to make up examinations and work missed while being disciplined by suspensions.

### **Multiple Suspension Procedures**

Whenever any student shall have had multiple suspensions adding up to eight days or one (1) ten-day suspension his/her case must be reviewed by the building principal (use attached sample letter #1 c). The building principal also may review any suspension offense that, in his/her opinion constitutes a threat to the health, safety, or welfare of other students or school employees. Such review may include, but is not limited to, a conference with the parents/guardians.

After such a review and conference, the principal may elect to readmit the student, extend the suspension, and/or refer the matter to the CEO for possible expulsion proceedings. In cases requiring such referral, it shall be necessary for the principal to administer a ten (10) school day suspension in order to ensure adequate time for the referral. All procedures relating to a suspension from four to ten school days (see prior sections) including an informal hearing will be followed. In cases requiring referral to the CEO, the parents/guardians must be notified of the ten (10) school day suspension and referral. A copy of that correspondence must be forwarded to the CEO, in addition to the individual with student attendance reporting responsibilities; student's file; the Pupil Services/Special Education Office and others at the discretion of the principal. After a conference, if the CEO does not elect to readmit the student, the student must be referred to the Board of School Directors for an exclusion hearing in accordance with the procedures established for such proceedings in the Board Policy Statement and the CEO's Administrative Policy Regarding Expulsion Hearings in this section.

### **In accordance with School Code Section 1317.2 - Exclusion for Possession of Weapons**

1. A "school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought a weapon onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity." Refer to Board Policy Statement Regarding "Weapons — Prohibition" in the Community Relations Section.
2. Expulsion shall be conducted pursuant to all applicable regulations as outlined in Board Policy Statement and the CEO's Administrative Procedure Regarding Expulsion Hearings in this section.
3. The CEO of a school district or an administrative director of an area vocational-technical school may recommend discipline short of expulsion on a "case- by-case basis." The CEO, in the case of an exceptional student, will take all steps necessary to comply with the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400, et seq.).
4. The CEO can make an alternative assignment or provide alternative educational services during this period of expulsion.
5. The CEO shall report the discovery of any weapon prohibited by this section to local law enforcement officials.
6. The CEO shall report to the Department of Education a || incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school- sponsored activity. Reports shall include all information as required under School Code Sections 1302-A and 1303-B.

#### **In-School Suspension Procedures/Temporary Alternative Educational Placement**

1. No student may receive an in-school suspension or temporary alternative educational placement unless the student has been informed of the reasons for the suspension and has been given an opportunity to respond before the suspension becomes effective. (See Attachment #1d.)
2. Communication to the parents/guardians shall follow the suspension action taken by the school.
3. In-school suspension beyond three (3) school days shall generally be reserved for more serious or persistent infractions of school rules. Such suspensions may be assigned only by a building principal or assistant principal in the principal's absence.
4. Students shall be provided with appropriate school work while on in-school suspension.
5. During the period of in-school suspension or, the student shall be recorded as in attendance.

#### **Suspensions of Students with Disabilities**

Typically, students with disabilities and students determined to be handicapped under Chapter 15, may not be suspended beyond ten consecutive school days and fifteen cumulative school days ("the 10/15 day limits") allowed by State Board of Education regulations, 22 Pa. Code §14.143. The exception to this general rule is where the IEP team determines that the student's conduct was not a manifestation of the student's disability. No later than the day on which the decision to take disciplinary action is made, the district shall notify the parents of the decision and of all procedural safeguards under the IDEA.

When discipline is to be imposed upon a student with disabilities, school personnel have the authority to (1) remove the child from his/her current placement to an appropriate temporary alternative educational setting or suspension for a period of not more than the 10/15 day limits to the extent such discipline would be applied to students without disabilities; (2) assign the student to an alternative educational setting for the same period as such discipline would be imposed upon children without disabilities if there has been a determination that the conduct at issue was not a manifestation of the child's disability or (3) assign the student to an interim alternative educational setting for not more than forty-five (45) school days without regard to whether the conduct at issue was a manifestation of the child's disability if the special circumstances for emergency placement.

When a student with a disability has committed an act that would result in a suspension from school, all regular disciplinary procedures must be followed. If the proposed suspension is longer than ten (10) consecutive school days, or longer than fifteen (15) cumulative school days when added to prior suspensions in the school year, or involves the exclusion of a student with intellectual disabilities, it is considered a change of educational placement as defined in 22 Pa. Code 14.143. Any recurring part-day removals may constitute a change of placement, just as recurring full day removals of the student from the class constitute a change in placement.

If proposed discipline would result in a change in placement, then in addition to other applicable procedures, within ten (10) school days of any decision to change the placement of a student with a disability, the relevant members of the IEP team must conduct a manifestation determination as set

forth below.

#### **Emergency Exclusions for Students with Intellectual Disabilities**

The protection afforded students with intellectual disabilities in the Commonwealth concerning suspension is greater than the protection afforded other students with disabilities. For students with intellectual disabilities, any suspension is a change in placement; however, the regulations provide a mechanism for emergency exclusions of students with intellectual disabilities, where necessary.

If a discipline problem with a student with intellectual disabilities is so immediate or severe as to warrant immediate action, District, via the Assistant Director of Special Education, with the approval of the Pennsylvania Secretary of Education or a designee, and after consultation with the Solicitor or Solicitor's designee, may implement an interim change in educational placement, including exclusion from school, as long as notice is provided to the parents/guardians and a due process hearing is scheduled as soon as possible. The Secretary approval process is available only for an exclusion of a student with intellectual disabilities for ten (10) days or less. A school district proposing to exclude a student with intellectual disabilities must first notify the student's parents/guardians in writing requesting approval. If the approval is not given, the parents/guardians and/or school district have the right to a due process hearing to determine whether a change in placement is appropriate.

#### **IEP/Multidisciplinary Team Consideration**

Within ten (10) school days after the decision to change the placement, the relevant members of the IEP team, as determined by the parents/guardians and the Administration, must consider whether the student's behavior is attributable to the student's disability. In making this determination (hereafter called the manifestation determination), the IEP team must review all relevant information in the student's file, including the IEP, any teacher observations, and any relevant information provided by the parents/guardians to determine: (a) whether the conduct in question was caused by or had a direct and substantial relationship to the student's disability and (b) whether the conduct in question was the direct result of the District's failure to implement the IEP. If the team determines that the answer to either of these questions is "yes," then the conduct shall be deemed a manifestation of the student's disability.

#### **Conduct Deemed a Manifestation**

If the conduct is deemed a manifestation, then the IEP team must (a) conduct a functional behavioral assessment of the student unless such an assessment was previously conducted and develop and implement a behavior intervention plan, unless such a plan has already been developed; or (b) if a behavior intervention plan was previously developed, then the IEP team must review the plan and modify it as necessary to address the behavior.

The behavioral intervention plan will provide the foundation in the determination of what constitutes a change in educational placement for each student's program. If the IEP team has included certain school responses to student behavior in the behavior intervention plan, the application of the agreed upon procedures will not constitute a change in educational placement.

Additionally, if the conduct is deemed a manifestation of the student's disability, then the student must be returned to placement from which the student was removed unless (a) the parents/guardians and

the District agree to a change in placement as part of a behavioral intervention plan or (b) the special circumstances for emergency placements set forth in this SAP apply. If the conduct in question involved any of these special circumstances, then the District may assign the student to an alternative educational setting for not more than forty-five (45) school days, regardless of whether the conduct was a manifestation of the student's disability.

If the conduct is deemed a manifestation but the District believes that maintaining the current placement is substantially likely to result in injury to the child or others, then the District may request an expedited due process hearing which must be scheduled within twenty (20) school days of the request. The student must remain in the current placement pending the hearing officer's decision, unless the District and the parents/guardians agree to an alternative placement.

#### **Conduct Not a Manifestation**

If the conduct is not deemed a manifestation of the student's disability, then the District may proceed with the disciplinary measures applicable to students without disabilities in the same manner and for the same duration as they would apply to students without disabilities. The District is still required to provide a free appropriate public education to the student through implementation of the student's IEP, but it may provide the education in an alternative setting. If a hearing before the Board is necessary, the Board must receive the complete special education and disciplinary records of the child.

If the parents/guardians disagree with a determination that the behavior was not a manifestation of the student's disability, then the parents/guardians have the right to an expedited hearing to challenge the determination. During the appeal, the student must remain in the interim alternative educational setting until the disposition of the appeal or until the expiration of the period of exclusion, whichever occurs first, unless the District and the parents/guardians agree otherwise.

If the conduct is not deemed a manifestation, then the District must conduct a functional behavioral assessment of the student and develop a Positive Behavior Support Plan; or if a Positive Behavior Intervention Plan was previously developed, then the IEP team must review the plan and modify it as necessary to address the behavior.

#### **Special Circumstances for Emergency Placements**

An eligible student may be removed to a 45-school-day interim alternative educational setting without the required manifestation determination if the student: 1) carries a weapon or possesses a weapon at school, on school premises, or to or at a school function; 2) 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; or 3) inflicts serious bodily injury upon another person while at school, on school premises, or at a school function. 34 C.F.R. § 300.530(g).

#### **Weapons**

A student with a disability who carries or possesses a dangerous weapon to or at school, on school premises or to or at a school function may be placed in an interim alternative educational setting for a maximum of forty-five (45) school days (the IEP team determines the setting and the student returns to regular education on the 46th day unless a mutually agreed upon new placement has been identified). Procedures described above related to the manifestation determination and development of a

functional behavioral assessment and implementation or modification of a behavioral intervention plan still apply.

#### **Controlled Substances**

A student with a disability who 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 may be placed in an interim alternative educational setting for a maximum of forty-five (45) school days (the IEP team determines the setting and the student returns to regular education on the forty-sixth (46th) day unless a mutually agreed upon new placement has been identified). The term “illegal drug” means a controlled substance but does not include a substance that is being administered in school under the supervision of a licensed healthcare professional. A “controlled substance” is a substance as defined in the Controlled Substances Act (21 U.S.C. §812(c).) Procedures described above related to the manifestation determination and development of a functional behavioral assessment and implementation or modification of a Positive Behavior Support Plan still apply.

#### **Serious Bodily injury**

A student with a disability who has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function may be placed in an interim alternative educational setting for a maximum of forty-five (45) school days (the IEP team determines the setting and the student returns to regular education on the forth-sixth (46th) day unless a mutually agreed upon new placement has been identified).

Serious bodily injury is defined as “bodily injury, which involves a substantial risk of death; extreme physical pain, protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.” Procedures described above related to the manifestation determination and development of a functional behavioral assessment and implementation or modification of a Positive Behavior Support Plan still apply.

For any of these special circumstances for emergency placements, if a student’s conduct is deemed not to be a manifestation of the student’s disability, then the District may impose discipline beyond the forty-five (45) school days to the extent and for the duration that it would impose such discipline on students without disabilities. If the District proposes such a placement beyond the forty-five (45) school day alternative placement, then the District must offer a Board hearing as it would for students without disabilities.

**Procedures** for suspensions of one to three (1 to 3) school days and four to ten (4 to 10) school days for all students with disabilities, except those who have intellectual disabilities, follow procedures used for regular education students set forth in this SAP. In addition, the principal should notify and consult with the appropriate special education supervisor and Assistant Director of Special Education of the suspension and the readmission date.

For special education students who are being suspended or otherwise excluded for periods of time longer than ten (10) consecutive school days or more than fifteen (15) cumulative school days, the following procedures apply:

1. Prior to the student actually serving any suspension in excess of ten (10) consecutive or fifteen (15)

cumulative school days, the relevant members of the IEP team must conduct a manifestation determination

2. If the IEP team determines the conduct was a manifestation of the student's disability, then the IEP team must conduct a functional behavioral assessment, unless one was already conducted and develop/modify a behavior intervention plan. Additionally, the student may not be suspended in excess of the 10/15 school day limits unless the special circumstances for emergency placement set forth above apply (dangerous weapon, illegal drugs/controlled substance, inflicted serious bodily injury on another). If special circumstances do not apply and the District believes that maintaining the current placement is substantially likely to result in injury to the student or others, then the District may request an expedited due process hearing.

3. If the IEP team determines the conduct was not a manifestation of the student's disability, then the student may be suspended in excess of the ten/fifteen (10/15) school day limits. The decision of the team need not be unanimous and can be made over the parents/guardians' objections subject to the parents/guardians' right to contest the determination at an expedited due process hearing.

4. If the conduct is deemed not a manifestation, then the District issues a NOREP/PWN with a copy of the Procedural Safeguards Notice indicating the alternative educational placement as the placement and (under "Reasons for the Recommendations") indicating that the IEP team determined that the conduct was not a manifestation of the student's disability.

5. If the student's parents/guardians do not reject the NOREP or otherwise request a hearing, the suspension or expulsion and alternative placement may be implemented as if the student were in regular education. If the suspension is in excess of ten (10) consecutive school days, the District must offer a hearing before the Board of School Directors in the same manner as it would for any regular education student. This hearing may be waived by parental consent. If the conduct involved special circumstances for emergency placement, then a Board hearing would only be necessary if and to the extent that the alternative placement would exceed forty-five (45) school days.

6. If parents/guardians reject the NOREP/PWN, then the student may be assigned to the interim alternative educational placement and an expedited due process hearing on the manifestation determination must take place within twenty (20) school days of the date of the request and must result in a determination within ten (10) school days after the hearing. The student will remain in the interim alternative educational placement during the appeal. If the removal exceeds ten (10) school days and the conduct involved does not involve the special circumstances for emergency placements, then a hearing before the Board of School Directors must be offered as it would be for students without disabilities. If the conduct involved the special circumstances for emergency placement, then the Board hearing would only be necessary if and to the extent that the alternative placement would exceed forty-five (45) school days.

7. If the District prevails in the due process proceedings, then it can continue to implement the alternative placement for the duration of the exclusion as if the student were in regular education (subject to the Board hearing requirement, if applicable).

#### **Protections for Students Who Are Not Yet Eligible for Special Education**

1. The District may suspend the child for more than ten school days to the same extent that it would



suspend a nondisabled child for the same offense, provided, however, that

- a. The District did not have knowledge that the child was a child with a disability before the violation occurred; and
- b. If an evaluation is requested after the violation occurs, the District conducts the evaluation in an "expedited manner."

2. The District will be deemed to have knowledge of a disability if, prior to the violation,

- a. The parent expressed a concern, in writing, to supervisory or administrative personnel or a teacher of the child that the child requires special education and related services; or
- b. The teacher of a child has expressed specific concerns about a pattern of behavior demonstrated by the child directly to the Assistant Director of Special Education or other supervisory personnel; or
- c. The parent has requested an evaluation.

3. The District will not be deemed to have knowledge of a disability if:

- a. The parent of the child has not allowed an evaluation; or
- b. The parent of the child has refused services; or
- c. The child has been evaluated and it was determined that the child was not a child with a disability under the IDEA.