



NEBO SCHOOL DISTRICT BOARD OF EDUCATION POLICIES AND PROCEDURES

SECTION: J - Students
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1. **PURPOSE AND PHILOSOPHY**

Nebo School District recognizes that every student should have the opportunity to learn in an environment which is safe, conducive to the learning process, and free from unnecessary disruption. Every student is expected to follow accepted rules of conduct, show respect for other people and property, and obey persons in authority. In order to maintain a secure and orderly learning environment, Nebo School District hereby establishes the following policies and procedures to address student disruptive behavior which is unacceptable and may result in disciplinary action. (Utah Code Ann., Section 53a-11-901, et seq.)

2. **DEFINITIONS**

2.1 "Short-term suspension" is a temporary removal of a student from school for a period of ten (10) consecutive school days or less. A student who is suspended may, at the principal's discretion, have access to homework, tests, and other schoolwork through a home study program, but will not be allowed to attend regular school classes or participate in any school or District activities or events during the period of suspension.

2.2 "Long-term suspension" means removing a student from school for a period longer than ten (10) consecutive school days. In such event, the suspended student will not be allowed to attend regular school classes or participate in any school or District activities or events during the period of suspension. However, the District will work with parents to provide alternative educational placements and programs for students, where appropriate and feasible.

2.3 "Expulsion" means Board of Education removal of a student from school for a fixed (more than ten (10) consecutive school days) or indefinite period of time. In such event, the expelled student will not receive any educational services from the District during the period of expulsion. All expulsions must be reviewed at least annually by the Superintendent or

his/her designee. Parents of expelled students are responsible to comply with the compulsory education laws of the State of Utah by providing other educational services for the student and paying all associated costs thereof.

- 2.4 The term "**firearm**" includes, but is not limited to, handguns, rifles, shotguns, BB or pellet guns, or any device from which is expelled a projectile by action of an explosive.
- 2.5 The term "**facsimile firearm**" or "**look-alike firearm**" includes, but is not limited to, starter pistols, air-soft guns, cap guns, or toy guns.
- 2.6 The term "**weapon**" includes, but is not limited to, firearms, knives, explosive device, noxious or flammable material, martial arts weapon, or other dangerous object, material, or device that is used for, or is readily capable of, causing death or serious bodily injury.
- 2.7 The terms "**explosive device**" and "**noxious or flammable material**" include, but are not limited to, bombs, bullets and ammunition, fireworks, gasoline or other flammable liquids, mace, pepper spray, matches, and lighters.
- 2.8 The terms "**possession**" or "**use**" means the ownership, control, holding, retaining, inhaling, swallowing, injecting, or consuming of tobacco, alcohol, drugs, drug paraphernalia, or other controlled substances. The terms "**distribute**" or "**sale**" means the actual, or attempted sale, transfer, delivery, or dispensing to another of tobacco, alcohol, drugs, drug paraphernalia, or other controlled substances. All of the foregoing terms along with the terms "**alcohol**," "**drugs**," "**controlled substances**," and "**imitation controlled substances**" shall have the meanings ascribed to them in the Utah Controlled Substances Act (Utah Code Ann., Section 58-37-1, et seq.); the Utah Drug Paraphernalia Act (Utah Code Ann., Section 58-37a-1, et seq.); the Imitation Controlled Substances Act (Utah Code Ann., Section 58-37b-1, et seq.); and the Alcoholic Beverage Control Act (Utah Code Ann., Section 32A-1-101, et seq.); or any successor acts thereto of the Utah Code. The words "**other similarly harmful substances**" include, but are not limited to, the inappropriate or illegal use of inhalants, prescription drugs, or over-the-counter drugs.
- 2.9 The word "**tobacco**" shall include cigarettes, cigars, pipes, smokeless, or other tobacco products in any form.
- 2.10 A "**gang**" as defined in this policy means any ongoing organization, association, or group of three (3) or more persons, whether formal or informal, having as one of its primary activities the commission of criminal acts. "**Gangs**" have a unique name or identifiable signs, symbols, or marks, and its members, individually or collectively, engage in criminal, threatening, or violent behavior to persons or property, or create an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a school.
- 2.11 "**Gang activities**" include, but are not limited to, any of the following:
 - 2.11.1 Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, apparel, emblems, badges, tattoos, accessories, symbols, signs, or other things which are evidence of membership in or affiliation with any gang;
 - 2.11.2 Committing any act or using any speech, either verbal or non-verbal (i.e., flashing signs, gestures, handshakes, etc.) that demonstrates membership in or a affiliation with a gang;
 - 2.11.3 Soliciting others for membership in a gang;

- 2.11.4 Requesting any person to “pay for protection” or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;
 - 2.11.5 Possessing a weapon, alcohol, tobacco, controlled substance, drug paraphernalia, or other contraband;
 - 2.11.6 Committing any illegal act; OR
 - 2.11.7 Encouraging or inciting another person to act with physical violence upon any other person or cause damage to property.
- 2.12 The terms “**parent**” or “**parents**” mean natural parents, adoptive parents, foster parents, proctor parents, or legal guardians.
- 2.13 The terms “**pornographic or indecent material**” mean any material: (a) defined as harmful to minors in Utah Code Ann., Section 76-10-1201, such as a description or representation, in any form whatsoever, of nudity, sexual conduct, sexual excitement, abuse, etc.; (b) described as pornographic in Utah Code Ann., Section 76-10-1203, which material, when applying community standards, appeals to the prurient interest in sex, is patently offensive, and does not have any serious literary, artistic, political, or scientific value; or (c) described in Utah Code Ann., Section 76-10-1227, which describes illicit sex or sexual immorality.
- 2.14 “**Corporal punishment**” means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.
- 2.15 “**Multi-disciplinary Team**” is the committee created at the discretion of the Coordinator of Student Services and may be composed of school administrator(s), social worker(s), school counselor(s), school psychologist(s), teacher(s), and/or other individuals, as appropriate, to assist or to make recommendations for disciplinary action and suggest alternative educational placements and programs as consequences for student conduct violations.
- 2.16 “**Discipline Review Committee**” is the committee created at the discretion of the Coordinator of Student Services and may be composed of school administrator(s), social worker(s), school counselor(s), school psychologist(s), teacher(s), and/or other individuals, as appropriate, to serve as the impartial hearing panel for student disciplinary due process hearings.

3. **AUTHORITY TO ADMINISTER CORRECTIVE DISCIPLINE**

- 3.1 School principals or assistant principals have the authority to suspend a student for up to ten (10) school days.
- 3.2 The Superintendent and his/her designees (i.e., Director of Secondary Education, Director of Elementary Education, or Disciplinary Review Committee) may suspend a student for up to one (1) school year (one hundred and eighty (180) school days).
- 3.3 The Board of Education may expel a student for a fixed or indefinite period of time. However, all expulsions shall be reviewed by the Superintendent or his/her designee and the conclusions reported to the Board at least once each school year.

Utah Code Ann., Section 53A-11-905.

4. GROUNDS FOR DISCIPLINARY ACTION

A student may be suspended, expelled, and/or subject to other disciplinary action for any of the following reasons:

- 4.1 Frequent or flagrant willful disobedience; defiance of proper authority; or disruptive behavior, including, but not limited to, using foul, profane, vulgar, or abusive language, fighting, assault, threats, or other unreasonable and substantial disruption of a class, activity, event, or other function of the school. See also Safe School Environment Policy #JFCJA/EC.
- 4.2 Discrimination and harassment (including sexual, racial, religious, disability, or any other classification protected by law). See also Student Discrimination and Harassment Policy #JFCJB.
- 4.3 Engaging in any gang activities.
- 4.4 Possession or use of pornographic or indecent material on school property.
- 4.5 Trespassing or loitering on school property; stealing; burglary; or vandalism, graffiti, or other willful destruction or defacing of school property or the property of others. See Safe School Environment Policy #JFCJA/EC.
- 4.6 Criminal mischief; terroristic threats; intimidation; harassment; bullying; hazing; or behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or to school personnel or to the operation of the school. See also Safe School Environment Policy #JFCJA/EC, Student Discrimination and Harassment Policy #JFCJB, and Prohibition of Bullying Policy #JFCJC.
- 4.7 Demeaning behavior, whether consensual or not, including behavior involving physical violence, restraint, improper touching, inappropriate public display of affection, or inappropriate exposure of body parts not normally exposed in public settings. See also Safe School Environment Policy #JFCJA/EC, Student Discrimination and Harassment Policy #JFCJB, and Prohibition of Bullying Policy #JFCJC.
- 4.8 Improper use of cellular phones, Mp3 players, iPods, laser pointers, and other electronic devices. See also Electronic Devices Policy #JP.
- 4.9 The use, possession, sale, or distribution of drugs or controlled substances, imitation controlled substances, other similarly harmful substances, or drug paraphernalia. See also Policies and Procedures on Student Use of Tobacco, Alcohol and Other Drugs #JFCH / JFCI.
- 4.10 The use, possession, sale, or distribution of alcoholic beverages. See also Policies and Procedures on Student Use of Tobacco, Alcohol and Other Drugs #JFCH / JFCI.
- 4.11 The use, possession, sale, or distribution of tobacco products. See also Policies and Procedures on Student Use of Tobacco, Alcohol and Other Drugs #JFCH / JFCI.
- 4.12 The use, possession, sale, or distribution of any real or facsimile (look-alike) firearm, weapon, knife, explosive device, chemical device, noxious or flammable material, martial arts weapon, or other dangerous objects. See also Safe School Environment Policy #JFCJA/EC.

- 4.13 The actual or threatened use of a real or facsimile (look-alike) firearm, weapon, knife, explosive device, noxious or flammable material, martial arts weapon, or other dangerous objects with intent to intimidate another person or to disrupt normal school operations. See also Safe School Environment Policy #JFCJA/EC.
- 4.14 Misuse of computers, e-mail, or the Internet. See also Computer, E-Mail, and Internet Use Policy #CG.
- 4.15 Truancy or attendance violations. See also Nebo School District Attendance Policy #JED and Elementary Attendance Policy #JEDA.
- 4.16 Violation of dress and grooming standards, including, but not limited to, wearing anything signifying gang affiliation; wearing anything concerning tobacco, alcohol, drugs, or illegal activities; wearing anything that is immodest; or wearing anything that materially disrupts, or is reasonably anticipated to materially disrupt, the educational environment. See also Student Dress and Grooming Standards Policy #JFCA.
- 4.17 Any other serious violation affecting another student or school personnel, or which occurs in a school building, on school property, or in conjunction with any school activity or event.
- 4.18 The commission of any act which would constitute a crime under federal, state, or local law.
- 4.19 Engaging in any of the foregoing types of conduct outside of school or school related activities and events, or before or after school hours, which substantially and materially disrupt, or is reasonably anticipated to substantially and materially disrupt, the educational environment.

5. VIOLATIONS AND DISCIPLINE

- 5.1 Disciplinary Action: It is the responsibility of school employees to report prohibited behavior to a school administrator or an appropriate supervisor. Any student who engages in conduct in violation of this policy or any other policy concerning student behavior and conduct shall be subject to disciplinary action. Consequences shall be firm and fair and correspond to the severity of the infraction. A continuum of consequences should be utilized if appropriate under the circumstances. Disciplinary action may include, but is not limited to, before or after school detention, in-school suspension, short-term suspension, long-term suspension, expulsion, exclusion from or loss of extracurricular activities, probation, and/or alternative educational placement. In imposing such discipline, all facts and circumstances of the incident(s) shall be taken into account. Some disciplinary consequences may be specifically prescribed by this policy, another District policy, and/or applicable local, state, or federal law.
- 5.2 School Property Theft or Damage: Students being disciplined for the theft, willful destruction, or defacing of school property will be required to pay for the damages or make arrangements to work off the cost of the damages. Failure to do so shall result in the withholding of official written grades, diploma, and transcripts. The student's parents are also liable for damages as provided in Utah Code Ann., Section 78-11-20. If the student and the student's parents are unable to pay for the damages, or if it is determined by the school in consultation with the student's parents that the student's interests would not be served if the parents were to pay for the damages, then the school shall provide for a program of voluntary work for the student in lieu of the payment. Utah Code Ann., Section 53A-11-806.

6. DUE PROCESS PROCEDURES:

- 6.1 Regular Education Students:** Whenever a regular education student is subject to discipline for a violation of this or another District policy, the discipline due process procedures set forth in Section 14 of this policy shall be followed.
- 6.2 Students with Disabilities (Special Education - IDEA / Section 504):** Whenever a student is receiving special education and related services under the Individuals with Disabilities Education Act (IDEA) or is receiving accommodations under Section 504 of the Rehabilitation Act of 1973 (Section 504) is subject to discipline for a violation of this or another District policy, the discipline due process procedures prescribed by applicable state and federal laws and regulations shall be followed. Due process procedures for special education students are found in Section 15 of this policy and in the District's Special Education (IDEA) Policies and Procedures. Due process procedures for Section 504 students are found in Section 15 of this policy and in the District's Section 504 of the Rehabilitation Act of 1973 Policies and Procedures.

7. SEARCH AND SEIZURE

In order to preserve a safe environment for all students and school personnel, the Board of Education recognizes that school officials must have the authority to conduct reasonable searches of students and student property. In general, all searches must have reasonable suspicion to justify the search at its inception and must be reasonable in its scope. School officials engaging in searches of students and student property shall abide by the guidelines set forth in this section. See also Utah School Search Manual prepared by the Utah Attorney General's Office.

7.1 General Guidelines for Searches of Persons or Property:

7.1.1 Student Lockers:

Students have no right or expectation of privacy in school lockers. While lockers are under the joint control of students and the school, lockers are solely school property and may be searched at any time by school officials with or without cause. Once a locker is opened for search, any search of student belongings contained within the locker must comply with the guidelines for searches of personal belongings in Section 7.2 of this policy.

7.1.2 Searches of Students, Student Property, and Student Vehicles:

Searches of a student's person, personal property (i.e., coats, hats, backpacks, book bags, purses, wallets, notebooks, gym bags, etc.), or vehicle may be conducted whenever: (a) the student's conduct creates a reasonable suspicion that a particular school or District policy or law has been violated; and (b) the search is reasonably related to the suspicion and not excessively intrusive in light of the age and gender of the student and nature of the infraction. Circumstances warranting a search include those which school officials have reasonable suspicion that the student or student property is concealing weapons, drugs, alcohol, tobacco, prohibited contraband, lost or stolen items, etc.

7.2 Searches of Personal Belongings and Vehicles:

- 7.2.1** Personal belongings and vehicles located on school property may be searched by school officials whenever: (a) school officials have reasonable suspicion to believe a student is concealing evidence of a school or District policy violation or criminal activity; and (b) the items being searched are capable of concealing

such evidence. The student may be asked to open personal belongings and vehicles, and to turn over personal property for search by a school official. All searches of student property by school officials shall be witnessed by an objective third party (such as another administrator, teacher, or police officer) to observe that the search is not excessively intrusive.

7.2.2 All contraband discovered in a search by school officials should be immediately confiscated and turned over to law enforcement officers if school officials have reason to believe the contraband is related to the commission of a criminal act.

7.3 Searches of a Person: School officials shall make sure the search meets the following guidelines:

7.3.1 The search shall be conducted in a private area of the school by a school official of the same gender as the student being searched.

7.3.2 The search shall be observed by an objective third party of the same gender as the student being searched (i.e., administrator, teacher, or police officer).

7.3.3 School officials may ask the student to remove his/her hat, coat, shoes and socks, turn pockets inside out, and roll up sleeves to see if the student is hiding contraband.

7.3.4 If this limited search does not turn up suspected contraband and school officials have reasonable suspicion that the student is concealing contraband in his/her inner clothing (i.e., hiding drugs, weapons, or other contraband underneath shirt, pants, or underwear), law enforcement officers shall be summoned immediately to conduct further search and investigation. School officials shall, in a timely manner, contact the student's parents to inform them that a search was conducted by a law enforcement officer.

7.4 Canine Searches: The sniffing of a locker or vehicle by a trained canine for the detection of drugs, explosives, etc. is not considered a search. Any search based on a dog's alert must follow the requirements and procedures for searches of a student's person or property as set forth in this section.

7.5 Documentation of Searches: School officials are encouraged to thoroughly document the details of any search conducted of a student's person or property, especially in the case of drugs, alcohol, tobacco, weapons, or other items of criminal or significant importance. Documentation should be made at the time of the search, or as soon as possible thereafter, and should include the following: (a) the time, place, and date of the search; (b) the reasonable suspicion giving rise to the search (i.e., What did school officials suspect to find during the search?); (c) the name and title of individuals conducting and observing the search; (d) a statement about evidence that was found or not found as a result of the search; (e) a statement about who took possession of contraband (i.e., police officer, school official, etc.); and (f) information regarding the attempts of school officials to notify parents about the search.

8. RECIPROCITY AND ENROLLMENT

In accordance with the reciprocity agreements and understandings with other school districts in the State of Utah, it is the practice in Nebo School District to recognize and honor disciplinary action imposed upon a student by other school districts and schools. Accordingly, Nebo School District will not enroll a student who is currently under suspension or expulsion from another school district or school. In addition, a student may be denied admission in Nebo School District

on the basis of having been suspended or expelled from another school district or school during the preceding twelve (12) months. Utah Code Ann., Section 53A-11-904(3).

9. RESPONSIBILITY OF PARENTS

If a student is suspended or expelled for more than ten (10) school days, the parents are responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of suspension or expulsion. The parents can work with designated school personnel to determine how that responsibility might best be met through an alternative educational placement or program offered by or through the District, private education, or other alternative which will satisfy the legal and educational needs of the student. The parents and school personnel may enlist the cooperation of the Division of Child and Family Services (DCFS), the juvenile court, or other appropriate state agencies to meet the student's educational needs. Costs for educational services which are not provided by the District are the responsibility of the student's parents. Utah Code Ann., Section 53A-11-907.

10. ALTERNATIVES TO SUSPENSION OR EXPULSION

A continuum of intervention strategies shall be available to help students whose behavior in school repeatedly falls short of reasonable expectations. Prior to suspension or expulsion of a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not of such a violent or extreme nature that immediate removal is warranted, good faith efforts shall be made to implement a remedial discipline plan that would allow the student to remain in school. A number of interventions should be tried, including, but not limited to: (a) talking with the student; (b) class schedule adjustment; (c) contact with the parents; (d) parent/student conferences; (e) behavioral contracts; (f) after-school make-up time; (g) short-term in-school suspension; (h) short-term at-home suspensions; (i) Multi-disciplinary Team involvement and assistance; (j) appropriate evaluation; (k) home study; (l) alternative educational placements and programs; and (m) law enforcement assistance, as appropriate. The District shall also cooperate with the Utah State Office of Education in regards to researching, motivating, and providing student incentives that: (1) directly and regularly reward or recognize appropriate behavior; (2) impose immediate and direct consequences on students who fail to comply with District or school standards of conduct; and (3) keep the student in school, or otherwise continue student learning with appropriate supervision or accountability. Utah Code Ann., Section 53A-11-906.

11. PARENTAL ATTENDANCE WITH STUDENT

As part of a remedial discipline plan for a student, a school may require the student's parent, with the consent of the student's teachers, to attend class with the student for a period of time specified by a school or District administrator. If the parent does not agree or fails to attend class with the student, the student shall be suspended or expelled in accordance with the provisions of school and District discipline policies. Utah Code Ann., Section 53A-11-906.

12. EXTRACURRICULAR ACTIVITIES

Participation in student government, competitive athletics, and other extracurricular activities may confer important educational and lifetime benefits upon students. However, there is no constitutional or legally protected property right to participate in these types of extracurricular activities. Students who participate in extracurricular activities become role models for others in the school and community. These students often play major roles in establishing standards of acceptable behavior in the school and community, and establishing and maintaining the reputation of the school and the level of community confidence and support afforded to the school. Accordingly, students involved in extracurricular activities must comply with school and District policies, team or organization rules, and applicable local, state, and federal laws in regards to their conduct and behavior. Any violations of the foregoing may subject the student to disciplinary action, including, but not limited to, suspension, probation, or exclusion from

participation in the extracurricular activities. For Students participating in extracurricular activities shall in all respects conduct themselves in a manner befitting their positions and responsibilities. Utah Code Ann., Section 53A-11-908.

13. CORPORAL PUNISHMENT / PHYSICAL RESTRAINT

A school employee may not inflict or cause the infliction of corporal punishment upon a student who is receiving educational services from the District. This section does not prohibit the use of reasonable and necessary physical restraint or force in self defense or in other appropriate circumstances: (a) to obtain possession of a weapon or other dangerous object in the possession or under the control of a student; (b) to protect the student or another person from physical injury; (c) to remove a violent or disruptive student from a situation; or (d) to protect property from being damaged. Utah Code Ann., Section 53A-11-802.

14. STUDENT DISCIPLINE PROCEDURES (REGULAR EDUCATION STUDENTS)

In every situation where a regular education student is subject to discipline for a violation of this or another District or school policy, the school administrator must first ascertain whether the school had prior knowledge to the incident that the student may have an unidentified disability subject to protection and procedural safeguards provided under the IDEA or Section 504. The school will be deemed to of had prior knowledge if any of the following circumstances are met: (a) the parent of the student has expressed concern in writing to school personnel that the student is in need of special education and related services; (b) the parent of the student has requested an evaluation of the student; or (c) a teacher or other school personnel has expressed specific concerns about a pattern of behavior of the student to the Director of Special Education / Federal Programs or other supervisory personnel. If none of the above circumstances are met, then the discipline procedures set forth in this section shall be followed. If any one or more of the above circumstances are met, then the following questions must be addressed: (1) Has the parent not allowed an evaluation of the student? (2) Has the parent refused services? (3) Has the student been evaluated and determined not to be a student with a disability? If the answer to any of the foregoing questions is “yes,” then the discipline procedures set forth in this section shall be followed, subject to any applicable educational and related services, rights, and protections if the student is subsequently identified as a student with a disability protected under the IDEA or Section 504. If the answer to any of the foregoing questions is “no,” then the discipline procedures set forth in Section 15 shall be followed.

14.1 Short-Term Suspensions - Ten (10) consecutive school days or less. See Student Discipline Due Process - Regular Education Student Flowchart. Utah Code Ann., Sections 53A-11-903, 904, and 905. Goss v. Lopez, 419 U.S. 565 (1975).

14.1.1 School Administrator:

14.1.1.1 Upon being apprised of a student incident in violation of District or school policy that may lead to disciplinary action, a school administrator shall promptly and thoroughly investigate and document the incident.

14.1.1.2 Minimal due process is required. The school administrator shall give the student verbal or written notice of the violation, evidence of the accusation, and the opportunity to present their side of the story. Generally, the notice and informal hearing shall precede the student’s removal from school.

14.1.1.3 The school administrator shall notify the custodial parent(s) or legal guardian(s) of the student of the following: (a) that the student has been suspended for ten (10) school days or less; (b) the grounds

for the suspension; (c) any conditions of the suspension; and (d) the time and place for the parents to meet with the school administrator to review the suspension.

- 14.1.1.4** The school administrator shall also notify the non-custodial parent of the student of the suspension, if requested in writing.
- 14.1.1.5** The school administrator shall determine the best way to transfer custody of the suspended student to the parents. The school administrator shall then assure that the student is either released directly to the custody of the parents or has obtained permission from the parents for the student to leave school and go home. A suspended student shall immediately leave the school building and grounds.
- 14.1.1.6** A suspended student may not be readmitted to school until: (a) the student and the parents have spoken with the school administrator to review the suspension; (b) all conditions of the suspension have been satisfied; and (c) the school administrator, student, and parents have agreed upon a plan to avoid recurrence of the problem.
- 14.1.1.7** Disagreements between the parents and the school in regards to short-term suspensions will be handled in meetings between parents, school administrators, and the student, if appropriate.

14.2 Long-Term Suspensions and Expulsions. More than ten (10) consecutive school days. See Student Discipline Due Process - Regular Education Student Flowchart. Utah Code Ann., Sections 53A-11-903, 904, and 905. Goss v. Lopez, 419 U.S. 565 (1975).

14.2.1 School Administrator:

- 14.2.1.1** Upon being apprised of a student incident in violation of District or school policy that may lead to disciplinary action, a school administrator shall promptly and thoroughly investigate and document the incident.
- 14.2.1.2** The school administrator shall give the student verbal or written notice of the violation, evidence of the accusation, and the opportunity to present their side of the story. Generally, the notice and informal hearing shall precede the student's removal from school.
- 14.2.1.3** A suspension or expulsion may not extend beyond ten (10) school days unless the student and the student's parents have been given notice and a reasonable opportunity to meet with the school administrator and/or District officials and respond to the allegations and proposed disciplinary action.
- 14.2.1.4** The school administrator shall notify in writing the custodial parent(s) or legal guardian(s) of the student of the following: (a) that the student has been suspended for ten (10) school days; (b) the grounds for the suspension; (c) any conditions of the suspension; (d) that the matter has been referred to the District Office for further disciplinary action; and (e) that the student and parents need to meet with the District's Coordinator of Student

Services. A copy of this written notification shall be send to the Coordinator of Student Services.

14.2.1.5 The school administrator shall also notify the non-custodial parent of the student of the suspension, if requested in writing.

14.2.1.6 The school administrator shall determine the best way to transfer custody of the suspended student to the parents. The school administrator shall then assure that the student is either released directly to the custody of the parents or has obtained permission from the parents for the student to leave school and go home. A suspended student shall immediately leave the school building and grounds.

14.2.1.7 The school administrator shall notify the District’s Coordinator of Student Services of the incident and provide him/her with all relevant and necessary information and documentation. If appropriate, the school administrator shall also notify law enforcement and/or the Division of Child and Family Services (DCFS) of the incident.

14.2.2 Coordinator of Student Services:

14.2.2.1 The Coordinator of Student Services shall: (a) obtain all necessary information and documentation regarding the incident; (b) notify and conduct a Resolution Conference with the student and parents within ten (10) school days of the school’s suspension; and (c) make a recommendation for disciplinary action to the Director of Secondary or Elementary Education, as applicable.

14.2.3 Director of Secondary / Elementary Education:

14.2.3.1 The Director of Secondary / Elementary Education, as applicable, shall send a letter to the student’s parents imposing the recommended disciplinary action, including a statement of their right to request, in writing, a hearing before the Discipline Review Committee within ten (10) calendar days.

14.2.3.2 If no request for a hearing is received within ten (10) calendar days, the Secondary / Elementary Director’s decision, as applicable, concerning the disciplinary action is final. If a request for hearing is received within the time period, the Director will schedule a hearing before the Discipline Review Committee within ten (10) school days of receiving the request for hearing.

14.2.4 Discipline Review Committee:

14.2.4.1 The Discipline Review Committee shall conduct a hearing with the student and student’s parents. The Discipline Review Committee shall issue a written decision concerning the disciplinary action to the student’s parents, including a statement of their right to request, in writing, an appeal before the Superintendent within ten (10) calendar days.

14.2.4.2 If no request for an appeal is received within ten (10) calendar days, the Discipline Review Committee’s decision concerning the

disciplinary action is final. If a request for an appeal is received within the time period, the Discipline Review Committee will schedule a hearing before the Superintendent within ten (10) school days of receiving the notice of appeal.

14.2.5 Superintendent:

14.2.5.1 The Superintendent shall conduct a hearing with the student and student's parents. The Superintendent shall issue a written decision concerning the disciplinary action to the student's parents, including a statement of their right to request, in writing, an appeal before the Board of Education within ten (10) calendar days.

14.2.5.2 If no request for an appeal is received within the ten (10) calendar days, the Superintendent's decision concerning the disciplinary action is final. If a request for an appeal is received within the time period, the Superintendent will schedule a hearing before the Board of Education within ten (10) school days of receiving the notice of appeal.

14.2.6 Board of Education: The Board of Education shall conduct a hearing with the student and student's parents. The Board of Education shall issue a final written decision concerning the disciplinary action.

14.2.7 Student Progress: The Coordinator of Student Services or his/her designee shall have contact with the parents of each suspended or expelled student under the age of sixteen (16) at least once each month to determine the student's progress.

14.2.8 Readmission to School: A suspended or expelled student may not be readmitted to school until: (a) the student and the parents have met with the Coordinator of Student Services to review the suspension; (b) all conditions of the suspension have been satisfied; and (c) the Coordinator of Student Services, student, and parents have agreed upon a plan to avoid recurrence of the problem.

14.3 Investigations and Documentation: The investigation and documentation of student incidents by the school administrator should include the following: (a) conduct interviews of students and others who were involved in or witnessed the incident(s); (b) obtain statements from students and others who were involved in or witnessed the incident(s); (c) obtain and secure any relevant evidence; (d) prepare any necessary forms and other documentation; (e) involve District personnel, local law enforcement personnel, and/or DCFS, as applicable; and (f) perform any other tasks necessary to properly investigate and document the student incident(s).

14.4 Hearings: Student disciplinary due process hearings are not as formal as court hearings. Strict adherence to court rules of procedure and evidence are not required. However, certain rights of the student must be observed. The hearing must be impartial, the student is entitled to representation by legal counsel, the student is to be made aware of the general nature of the evidence to be used against him/her, and substantial evidence must be provided.

14.5 Right to Counsel: Although a student is entitled to be represented by legal counsel at a hearing, the District is not responsible to provide counsel or pay for the student's expenses in obtaining counsel.

- 14.6** Evidentiary Rules: Testimony in a student disciplinary due process hearing is not subject to the strict adherence to court rules of evidence. In fact, hearsay testimony is admissible. However, the District's evidence supporting the disciplinary action must meet the test of "substantial evidence."

15. STUDENT DISCIPLINE PROCEDURES (STUDENTS WITH DISABILITIES)

- 15.1** Short-Term Suspensions - Ten (10) consecutive school days or less. See Student Discipline Due Process – Students with Disabilities Flowchart. Utah Code Ann., Sections 53A-11-903, 904, and 905. Goss v. Lopez, 419 U.S. 565 (1975).

15.1.1 School Administrator: In every situation where an eligible student with disability under the IDEA or Section 504 is subject to discipline for a violation of this or another District or school policy, the school administrator must first ascertain whether the student has been previously suspended during the current school year. If not, then proceed in accordance with Section 15.1. If yes, determine whether the total suspensions cumulate to more than ten (10) school days in the current school year. If the total suspensions do not cumulate to more than ten (10) school days, then proceed in accordance with Section 15.1. If the total suspensions do cumulate to more than ten (10) school days, then the school administrator and staff must determine if the student has been subject to a series of suspensions that constitute a pattern. A "pattern" occurs when: (a) the series of suspensions total more than ten (10) school days in a school year; (b) the student's behavior is substantially similar to previous incidents that resulted in the series of suspensions; and (c) there are other factors suggesting a pattern, such as the length of each suspension, the total amount of time the student has been suspended, and the proximity in time of those suspensions (i.e., the longer the total number days and the closer they are in proximity, the more likely it would constitute a pattern). If there is no pattern, proceed in accordance with Section 15.1. If there is a pattern this constitutes a "change of placement" under the IDEA, and then proceed in accordance with Section 15.2.

15.1.1.1 Upon being apprised of a student incident in violation of District or school policy that may lead to disciplinary action, a school administrator shall promptly and thoroughly investigate and document the incident.

15.1.1.2 Minimal due process is required. The school administrator shall give the student verbal or written notice of the violation, evidence of the accusation, and the opportunity to present their side of the story. Generally, the notice and informal hearing shall precede the student's removal from school.

15.1.1.3 The school administrator shall notify the custodial parent(s) or legal guardian(s) of the student of the following: (a) that the student has been suspended for ten (10) school days or less; (b) the grounds for the suspension; (c) any conditions of the suspension; and (d) the time and place for the parents to meet with the school administrator to review the suspension.

15.1.1.4 The school administrator shall also notify the non-custodial parent of the student of the suspension, if requested in writing.

15.1.1.5 The school administrator shall determine the best way to transfer custody of the suspended student to the parents. The school

administrator shall then assure that the student is either released directly to the custody of the parents or has obtained permission from the parents for the student to leave school and go home. A suspended student shall immediately leave the school building and grounds.

15.1.1.6 A suspended student may not be readmitted to school until: (a) the student and the parents have spoken with the school administrator to review the suspension; (b) all conditions of the suspension have been satisfied; and (c) the school administrator, student, and parents have agreed upon a plan to avoid recurrence of the problem.

15.1.1.7 Disagreements between the parents and the school in regards to short-term suspensions will be handled in meetings between parents, school administrators, and the student, if appropriate.

15.2 Long-Term Suspensions. More than ten (10) consecutive school days constitutes a “change of placement” under the IDEA. More than ten (10) cumulative school days in a school year constitutes a “change of placement” under the IDEA if a pattern is established (see Section 15.1.1). See Student Discipline Due Process – Students with Disabilities Flowchart. Utah Code Ann., Sections 53A-11-903, 904, and 905. Goss v. Lopez, 419 U.S. 565 (1975).

15.2.1 School Administrator:

15.2.1.1 Upon being apprised of a student incident in violation of District or school policy that may lead to disciplinary action, a school administrator shall promptly and thoroughly investigate and document the incident.

15.2.1.2 The school administrator shall give the student verbal or written notice of the violation, evidence of the accusation, and the opportunity to present their side of the story. Generally, the notice and informal hearing shall precede the student’s removal from school.

15.2.1.3 On the date of the decision to remove the student from school, the school administrator shall provide the parents with notice of the suspension (“change of placement”) and a copy of the IDEA or Section 504 procedural safeguards notice.

15.2.2 Manifestation Determination: Within ten (10) school days of any decision to “change the placement” of a student with a disability because of a violation of this or another District or school policy, a determination must be made by the school administrator, parents, and relevant members of the student’s Individual Education Plan (IEP) Team of whether the behavior is a manifestation of the student’s disability by answering the following questions: (1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student’s disability? (2) Whether the conduct in question was the direct result of the school’s failure to implement the IEP?

15.2.2.1 If the answer to both of these questions is “no,” then the behavior is not a manifestation of the student’s disability. In such event, the student shall be disciplined as any other student for a similar offense in accordance with disciplinary procedures set forth in

Section 14; provided, however, that the student must continue to receive educational services during any period of suspension to assure that the student is receiving a Free and Appropriate Public Education (FAPE). The IEP Team will determine educational services and the Interim Alternative Educational Setting (IAES) where the student will receive educational services. Educational services should target the student's behavior to limit its reoccurrence, enable the student to participate in the general education curriculum, and progress towards meeting the student's IEP goals. In the event the parents of the student challenges the manifestation or placement decision through an expedited due process hearing, the student shall be kept in the IAES pending any such challenge until a final decision is issued.

15.2.2.2 If the answer to either of these two questions is “yes,” then the behavior is a manifestation of the student's disability. In such event, the IEP Team must conduct and/or review a Functional Behavior Assessment (FBA) and a Behavior Intervention Plan (BIP) for the student. The IEP Team must return the student to his/her prior educational placement, unless the parent and school personnel agree to a “change of placement” as part of the BIP. Notwithstanding the manifestation determination, in the event that school personnel believe that the student's behavior is substantially likely to result in injury to the student or others, the District may seek an expedited due process hearing to prevent the student from returning to his/her prior educational placement. In such event, the student shall be placed in an IAES pending the hearing until a final decision is issued.

15.2.3 Weapons, Drugs, or Serious Bodily Injury: Regardless of whether the misconduct is a manifestation of the student's disability, school personnel may remove a student with a disability for up to forty-five (45) days to an IAES if the student's misconduct involved: (a) possessing or using a weapon at school, on school premises, or at a school function; (b) 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 (c) inflicting serious bodily injury upon another person while at school, on school premises, or at a school function. For purposes of this section, the term “weapon” is defined as a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2 ½ inches in length. For purposes of this section, the terms “illegal drugs” or “controlled substances” have definitions contained in federal law, but do not include a substance that is legally possessed or used under the supervision of a licensed health care professional or that is legally possessed or used under any other authority under federal law. For purposes of this section, words “serious bodily injury” is defined as bodily injury which involves: (a) a substantial risk of death; (b) extreme physical pain; (c) protracted and obvious disfigurement; or (d) protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

15.3 Expulsions. Board of Education removal of a student from school for a fixed (more than ten (10) consecutive school days) or indefinite period of time. The expelled student will not receive any educational services from the District during the period of expulsion. Students with disabilities eligible under the IDEA are not subject to expulsion as a disciplinary measure. For a serious violation committed by an IDEA student, proceed

with a long-term suspension set forth in Section 15.2. Students with disabilities eligible under Section 504 are subject to expulsion as a disciplinary measure. For an expulsion involving a Section 504 student, follow the procedures set forth in Section 15.2. See Student Discipline Due Process – Students with Disabilities Flowchart. Utah Code Ann., Sections 53A-11-903, 904, and 905. Goss v. Lopez, 419 U.S. 565 (1975).

16. NOTIFICATIONS AND REPORTS

- 16.1** This policy may be posted on the District's website.
- 16.2** A summary of this policy shall be posted in a prominent location in each school. A summary of this policy may also be published in parent information guides, student handbooks, and other appropriate school publications as directed by the District.
- 16.3** Each school shall compile an annual report of all suspended and expelled students and submit it to the Coordinator of Student Services. For each suspension or expulsion, the annual report shall indicate the student's race, gender, disability status, age, grade, reason for the discipline, length of discipline, and any other information required or requested by the Coordinator of Student Services. The Coordinator of Student Services shall provide to the Board of Education an annual report of all suspended and expelled students summarized by school.
- 16.4** Within three (3) days of receiving adjudication or other information from the juvenile court or a law enforcement agency, the Superintendent shall notify the Coordinator of Student Services and the principal of the school where the student attends or last attended. The principal shall: (a) make a notation of this information in a secure file other than the student's educational file; and (b) if the student is still enrolled in school, notify school personnel who, in his/her opinion, should be aware of this information. School personnel receiving this information may only disclose the information to other persons having both a right and a need to know. Utah Code Ann., Section 53A-11-1002.

EXHIBITS

Student Discipline Due Process - Regular Education Students Flowchart
Student Discipline Due Process - Students with Disabilities Flowchart

REFERENCES

Individuals with Disabilities Education Act, 20 U.S.C. §1400, et seq.; 34 C.F.R. §300.1, et seq.
Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, et seq.; 34 C.F.R. §104, et seq.
Family Educational and Privacy Rights Act, 20 U.S.C. §1232g; 34 C.F.R. §99.1, et seq.
Gun Free Schools Act, 20 U.S.C. §7151
Utah Code Ann., Section 53A-11-401, et seq.
Utah Code Ann., Section 53-11-801, et seq.
Utah Code Ann., Section 53A-11-901, et seq.
Utah Code Ann., Section 53A-11-1001, et seq.
Utah Code Ann., Section 53A-11-1101, et seq.

FORMS

None
