**SCHOOL DISTRICT OF PHILADELPHIA**

OFFICE OF STUDENT RIGHTS AND RESPONSIBILTIES

GUIDELINES AND BEST PRACTICES FOR DISCIPLINE

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## Section 1. Investigating a Serious Incident

Upon receiving any information regarding a serious incident or allegations of a student violating the Code of Student Conduct, the principal, their designee or another school administrator must complete an investigation.

### Investigation Process:

* + 1. The investigation should consist of individual and private interviews with all involved parties and others with first-hand knowledge of the incident. The investigator may also evaluate other materials such as surveillance videos, photographs, and social media and/or text messages if they are relevant to the incident.
		2. The investigator shall attempt to secure written statements from all participants and witnesses as soon as possible.
		3. When a student with limited English proficiency is a party to an incident, interpretation and/or translation services shall be provided. Limited English proficiency is not an acceptable reason for failure to secure a statement.
		4. Although there may be a pending or concluded criminal investigation, schools must independently conduct an investigation of all serious incidents.

### Best Practices for Investigations

### Incidents do not need to occur on school property or during school hours in order for an investigation to take place. Incidents that occur on a student’s way to or from school, at school functions, or that have an impact on school climate also need to be investigated by the principal, designee, or assigned administrator.

### If the incident involves a victim/s, they should not be forced to meet face-to-face with the accused during the investigation. The need for implementing a safety plan should be evaluated by school administrators.

### If/When investigating an incident involving sexual acts, school district employees are not to view any photographs or video evidence. Contact the Philadelphia Police and turn over any evidence to the responding officer.

### If there is any uncertainty about suspension processes or procedures, the investigator should contact the school’s identified Support Person from the Office of Student Rights and Responsibilities for assistance.

## Section 2. Response to a Serious Incident: Suspension

Students in grades 3 -12 may be suspended, pursuant to an investigation, if the investigator concludes that the student has violated the Student Code of Conduct and an in-school intervention is not appropriate.

### Suspensions: According to Pennsylvania State Law, suspension is defined as "the denial to a student the right to attend school and to take part in any school function for any period of time up to 10 days’.

* + 1. In-school Suspension is an exclusion from a classroom for disciplinary purposes that allow a student to remain under the direct supervision of school personnel.
			1. Direct supervision means school personnel are physically in the same location as students under their supervision.
		2. Short-term Out-of-School Suspension is an exclusion from school and/or any school activity for three or fewer school days. The district shall immediately notify the student’s parent/guardian of the reason for the suspension and a conference must be scheduled to take place within 3 days.
		3. Long-term Out-of-School Suspension is an exclusion from school and/or any school activity or function for a period of four to ten school days.
			1. Prior approval by the Deputy Chief of the Office of Student Rights and Responsibilities is required for all suspensions exceeding 5 school days.

*NOTE*: For both short-term and long-term suspensions, the suspension always begins the following day. If a student is sent home on the same day as the incident, mark the student as having an early dismissal and start the suspension the following day.

### Best Practices for Suspensions

* + 1. Kindergarten, first, and second grade students may NOT be suspended unless their actions result in serious bodily injury (see Code of Conduct for definition of serious bodily injury).
		2. Schoolwork for students with more than a four (4) day suspension must be provided to the parent/guardian at the conference, and is due upon reinstatement. Students should also be given the opportunity to make up any tests that they missed during the suspension.
		3. Long-term suspensions DO NOT have to result in a referral for a disciplinary hearing.
		4. Issue only one (1) suspension for each incident.
		5. When a student is suspended over a school holiday break, wherein schools are closed, the holiday must count towards the total days a student is suspended. In order to ensure the suspension includes the holiday, the date range of the suspension should be manually entered into the behavior module in SIS.
		6. For information on suspension guidelines refer to the Office of Climate and Safety guidelines.

## Section 3. Response to a Serious Incident: Disciplinary Hearing Referrals

Students in grades 6 through 12 may be referred to the Office of Student Rights and Responsibilities for a student disciplinary hearing if the investigator concludes that 1) the student has violated the Code of Conduct 2) the rule violation is identified as an offense that may be referred for a hearing, and 3) school administrators are requesting that the student be removed from the school.

 **3.1 Disciplinary Hearing Referral Process**

School Administrators will determine if/when a student will be referred for a disciplinary hearing by utilizing the Behavior Matrix in the Student Code of Conduct and evaluating the nature of the incident as well as the student’s history of behaviors. Students who are referred will receive full due process, including a hearing to determine whether the student will be transferred.

* + 1. Principal or Designee will complete and submit all required documents within 7 calendar days of the serious incident (or 7 days from the date that they became aware of the incident).
			1. You will complete the disciplinary transfer information in SIS in the new behavior module
			2. Any documents that need to be signed, will be scanned and emailed to disciplinedocuments@philasd.org. The following documents need to be included:
1. Notice of Suspension
2. Parent Conference letter
3. Alternative Education for Disruptive Youth (AEDY)
4. Behavior Performance Review (regular ed. only)
5. Witness Statements
6. Student Assessment Program (SAP)
7. Evidence (Photographs, medical reports etc)
	* + 1. For special education students or student with 504 plan, the following documents should be uploaded into EZ IEP:
8. Manifestation Determination (with signature)
9. Permission to Evaluate or Permission to Re-Evaluate
10. Evaluation Report
11. IEP
12. Functional Behavior Assessment
13. Behavior Plan
14. Notice of Recommended Educational
15. Placement/Prior Written Notice (existing at the time of the incident)
16. Notice of Recommended Educational Placement/Prior Written Notice (indicating the proposed discipline action)
	* 1. Once a student’s suspension has ended, they are permitted to return to school until a decision is rendered by the Hearing Officer. The only exception is when an Interim school placement has been approved.
		2. A school administrator or designee must attend the hearing in person and they must be familiar with the facts of the incident as well as the student’s academic and behavioral history as well as any interventions that have been implemented to date.
		3. As a result of the hearing, a Hearing Officer may decide to implement a Behavior Contract, do a lateral transfer or transfer the student to an alternative educational placement.

**3.2 Best Practices for Disciplinary Hearings**

1. School Police, Counselors and teachers may attend disciplinary hearings as witnesses to the incident but should not present the case during the hearing.
2. If a school administrator is the identified victim, they may attend the hearing to provide a victim statement but a different administrator will need to attend to represent the school during the hearing.
3. School representative must bring a copy (hard or digital) of all of the required documents with them to the hearing.
4. Include photographs of evidence (i.e. weapons or drugs) as part of the disciplinary hearing referral. Do not submit a photocopy.
5. Parents are permitted to obtain a copy of the EH21 file (redacted) and are permitted to watch any video evidence during the parent conference.
6. **School Administrators should not force or pressure victims to attend the disciplinary hearing; their participation is optional.**
7. For regular education students, complete each section of the Behavior Performance Review worksheet to determine if the student should be evaluated for special education services.If the results show that the student is thought-to-be eligible for special education, the team must issue the Permission toEvaluate and the student will remain at the school.
8. If an interim placement is needed, submit the request to the Director of Student Rights and Responsibilities as soon as possible (during the suspension period).

### Section 4. Discipline for Students with Disabilities

### With regard to discipline, special considerations are in place for students with disabilities (this includes students with 504 Service Agreements).

### 4.1 Students Identified as Intellectually Disabled

Before suspending a student with an intellectual disability, the IEP team must conduct a Manifestation Determination to determine whether the student's behavior is attributable to his/her disability. If so, you may **NOT** suspend. If it is not attributable to his/her disability, the school may proceed with a suspension, provided the parent approves and signs a NOREP describing the action proposed, based on the findings of the Manifestation Determination.

On rare occasions, a school may wish to contact the State for approval of a suspension for a student with an intellectual disability. This may happen if a parent is unavailable to provide or deny consent. On such occasions, schools are encouraged to contact the Director of Special Education before contacting the Bureau of Special Education (BSE).

### 4.2 Discipline for All Other Disabled Students - Including Students with 504 Service Plan Agreements

The School District of Philadelphia may suspend students with disabilities and cease educational services for up to five (5) consecutive school days or 15 cumulative school days in one **(1)** school year without providing special education procedural safeguards.

The school must complete the following steps for students with IEPs or Section 504 service agreements if a "pattern" of behavior has been displayed, or a request for a disciplinary transfer is being considered:

* + 1. Provide written notice to the parent/guardian of the recommended disciplinary action and the date of an Individualized Education Plan (IEP) meeting, to complete the Manifestation through an invitation to participate. During the IBP/Manifestation Determination meeting. The IEP team shall review the student's most current evaluation and the students IEP/ placement to determine whether the student's misconduct is related to the student's disability. This should be done within 24 hours of the incident, if possible.
		2. Answer the following two questions at the manifestation meeting: 1) Was the conduct caused by, or did it have a direct and substantial relationship to, the student's disability; 2) Was the conduct in question a direct result of the school's failure to implement the Individualized Education Plan (IEP)?
			1. If the student’s behavior is determined not to be a manifestation of disability A Notice of Recommended Educational Placement (NOREP) must be issued with the results of this determination and a copy of the Procedural Safeguard Notice must be given to the parent. If the parent disagrees with the results of the Manifestation Determination, the school must immediately inform the parent of their right to initiate an expedited Special Education hearing and a State-appointed hearing officer will review the manifestation determination.

If necessary, the IBP team shall review and revise, the existing Positive Behavior Support Plan (PBSP) or, if necessary, complete a Functional Behavior Assessment (FBA) and Positive Behavior Support Plan to address the misconduct.

The IBP team shall determine the appropriateness of an interim alternative educational setting, and as indicated, include in the IEP those services and modifications that will enable the student to continue to participate in the general curriculum and address the behavior so that it will not recur.

* + - 1. If the student's behavior **IS** a manifestation of the disability, the student's placement may be changed to an appropriate interim educational setting, only if the student:
1. Carried a weapon to school or a school function;
2. Knowingly possessed, used, or sold illegal drugs;
3. Solicited the sale of a controlled substance while at school or at a school function; or
4. Inflicted serious bodily injury upon another person while at school or at a school function.

In these special circumstances and over parent objections, school officials may remove the student, by issuing a Notice of Recommended Educational Placement (NOREP) to a Disciplinary School Setting for no more than forty-five (45) school days.

Students with disabilities, even if expelled, must be provided with a Free and Appropriate Public Education (FAPE).

### 4.3 Best Practices for Disciplining Students with Disabilities

###  a. Obtain all required signatures on each document and include them with the EH21 Referral packet.

###  b. If the parent requested that the student be evaluated prior to the date of the incident, and an evaluation has not yet been completed, a disciplinary hearing will not proceed.

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