

## **Student Discipline: Due Process Recommendations and Legal Requirements**

CPS charter schools may choose to adopt the CPS Student Code of Conduct or develop a student discipline policy, subject to approval by the Office of Innovation & Incubation.

The CPS Student Code of Conduct was developed to create a consistent set of expectations for schools, emphasize interventions and consequences that teach positive behavior, provide clear guidance for all school community members to build positive school culture, and outline interventions and consequences for students who engage in inappropriate behavior. The CPS Student Code of Conduct is organized into the following sections:

1. Student, Parent/Guardian, and School Staff Rights and Responsibilities, and Chief Executive Officer Responsibilities
2. General Requirements for Administrators:
  - Redirect to correct behavior
  - Intervene
  - Gather information
  - Analyze
  - Discuss and provide the opportunity to explain
  - Make a determination and assign interventions or consequences
  - Complete report
  - Inform parents/guardians of their right to appeal
  - Restore
3. Suspension Guidelines
4. Police Notification Guidelines
5. Student Behaviors Covered by the SCC
  - Special notes on Individual School Rules and Academic Process, Cellular Phones, School Dress Codes and Uniform Policies, Military and JROTC Programs, Dating Violence, and Other Laws, Policies, Rules, and Contracts
  - Specific behaviors covered by the SCC are organized by group level. Group levels range by degree of disruption – Group 1 (inappropriate behavior) through Group 6 (illegal and most seriously disruptive behavior)
  - Administrators are guided by a range of available interventions and consequences in response to behaviors for each group level.
6. Anti-Bullying Policy
7. Additional Resources

In developing a student discipline policy, ensure protection of students' due process rights. Please consider the following objectives:

- Provide students and parents/guardians with clear notice of the behaviors that may result in discipline and the steps that will be taken in response to inappropriate behavior.
- Allow students to respond to the allegations against him/her before assigning a consequence.
- Maintain consistency throughout your school/network.
- Ensure separation between behavioral consequences and academic success.
- Develop a process for students and parents/guardians to appeal disciplinary action.
- Ensure that interventions and consequences are proportionate to offenses.
- If a student is recommended for expulsion, convene an evidentiary hearing and allow the student and parent/guardian to respond to the allegations.

Note that federal and state law mandate additional procedural safeguards for students with disabilities. The Individuals with Disabilities Education Act (IDEA) requires that disciplinary policies and procedures for students with disabilities apply to all schools belonging to a Local Educational Agency (LEA). The Board of Education of the City of Chicago is the LEA for charter schools operating in Chicago so these charter schools must comply with CPS policies as they relate to IDEA requirements, including disciplinary procedures for students with disabilities.

Disciplinary procedural safeguards apply to students with Individualized Education Programs (IEPs), students with §504 Plans, and students not yet eligible for special education and related services if the student is currently being evaluated, the parent has requested in writing a full individualized evaluation, the parent has expressed in writing that the child needs specialized and related services, and/or a teacher expressed concerns to supervisory personnel about a student's pattern of behavior.

School officials may suspend students with disabilities for a total of up to 10 consecutive or cumulative school days in one school year in the same manner as their nondisabled peers. Suspensions beyond 10 days must be approved by the CPS Office of Diverse Learner Supports and Services, Department of Procedural Safeguards and Parental Support. In-school suspensions do not count toward the 10 day total if students continue to participate in the general curriculum, continue to receive their IEP services, and continue to participate with non-disabled peers to the same extent as specified in the IEPs.

A manifestation determination review (MDR) must be conducted by the IEP team when:

- A student with a disability has been suspended in excess of 10 days in the aggregate during the school year and there has been a pattern of removals, as determined by the ODLSS Due Process and Mediation unit in consultation with school personnel; or
- School officials initiate a referral for expulsion.

The MDR conference must be held within 10 school days of the recommended disciplinary action. During the MDR, the team must answer these questions:

- Was the conduct in question caused by the student's disability or does it have a direct and substantial relationship to the student's disability?
- Was the conduct in question the direct result of the school's failure to implement the student's IEP?

If the answer to *either* of these questions is "yes," the student cannot be expelled/removed. If the answer to *both* of these questions is "no," an expulsion hearing may be conducted. All MDR documents are subject to review by ODLSS prior to long term disciplinary removal of the student.

If a charter school's board of directors makes a determination that a student will be expelled, the Department of Student Adjudication (DSA) must be notified. DSA reviews each charter school expulsion on a case by case basis to determine the appropriate placement for the student, in accordance with the Chicago Board of Education's Policy on Enrollment and Transfer of Students in the Chicago Public Schools (<http://policy.cps.k12.il.us/download.aspx?ID=50>). DSA may recommend the student's placement in his/her neighborhood school or in an alternative program.

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