STUDENTS

Discipline of Students with Disabilities

I. General Procedures

A. A student with a disability is entitled to the same due process rights as all students.

B. If a student’s behavior impedes the student’s learning or that of other students, the Individualized Education Program (IEP) team must convene, consider, and document the consideration of positive behavioral interventions, strategies, and supports to address the behavior. The IEP team considerations must include:

1. Development of IEP goals and services to specifically address the behavioral needs of the student; or

2. Implementation and documentation of the Prince William County Public Schools (PWCS) Functional Behavioral Assessment (FBA) process and determining and documenting the need for a Behavioral Intervention Plan (BIP) to address the student’s behavioral needs.

II. When a student with a disability violates the “Code of Behavior,” the IEP team must consider unique circumstances on a case-by-case basis when considering whether or not to change the placement of the student.

III. A change in placement for the purposes of discipline means:

A. Removal of a student from the student’s current educational placement for more than 10 consecutive school days; or

B. The student is subjected to a series of removals that constitute a pattern.

IV. PWCS determines on a case-by-case basis whether a pattern of removals constitutes a change in placement. This determination is subject to review through PWCS, the Central Office Review (COR) process, and/or due process and judicial proceedings.

V. Short-Term Removal (Short-Term Suspension)

A. A short-term removal is a removal of up to 10 consecutive school days or 10 cumulative school days in a school year.
B. A student with a disability may be short-term removed from the student’s current educational setting to an appropriate Interim Alternative Educational Setting (IAES), another setting, or suspension, to the extent those alternatives are applied to a student without disabilities.

1. Students with disabilities may be subject to additional short-term removals in a school year for separate incidents of misconduct if the removals do not constitute a pattern (see Section IV for further discussion of patterns).

2. If there is a pattern, the removals are considered a long-term removal and a change in placement.

3. When student behavior results in the consideration of multiple short-term removals, school staff should consult with the Office of Special Education.

4. PWCS determines when isolated, short-term removals for unrelated instances of misconduct are considered a pattern.

C. Services during short-term removals.

1. No services are required for the first 10 school days of removal in a school year for a student with a disability other than the services provided to a student without a disability who has been similarly removed.

2. For additional short-term removals that do not constitute a pattern, on the 11th day of removal, PWCS must provide services to the student which:

   a. Enable participation in the general education curriculum;

   b. Enable progress toward meeting the student’s IEP goals; and

   c. Include participation in state and Divisionwide testing programs.

VI. Long-Term Removal (Long-Term Suspension and Expulsion)

A. Long-term removal means:

1. A removal for more than 10 consecutive school days; or
2. A series of short-term removals that constitutes a pattern. Short-term removals constitute a pattern when the removals:
   a. Cumulate to more than 10 school days in a school year;
   b. Result from behavior that is substantially similar to the behavior in previous incidents that resulted in the series of removals; and
   c. Involve additional factors, for example, the length of each removal, the total amount of time the student has been removed, and the proximity of the removals to one another.

B. School principals must notify the parent(s) of the long-term removal of a student due to a violation of the “Code of Behavior” and provide the parent(s) with the procedural safeguards on the date on which the decision is made for the long-term removal of the student.

C. Services during long-term removals:

PWCS must provide services to student with disabilities during long-term removals which:

1. Are determined by the IEP team;
2. Enable the student to participate in the general curriculum, although in another setting;
3. Continue to provide services and modifications in the current IEP that enable progress toward the IEP goals;
4. Enable the student to receive, as appropriate, a FBA and behavioral interventions and modifications which address the behavior so that it does not recur.

VII. Manifestation Determination Review

A. Manifestation Determination Review (MDR) is the process to review all relevant information and the relationship between the student’s disability and the behavior subject to the disciplinary action.
B. An MDR is required when the removal constitutes a change in placement as described as follows:

1. PWCS is contemplating a long-term removal (more than 10 consecutive school days).

2. The student has received a series of short-term removals that constitute a pattern.

C. The MDR shall be conducted by PWCS, the parent, and other members of the IEP team. PWCS and the parent determine the relevant members of the IEP team for the MDR.

D. The MDR team shall:

1. Convene no later than 10 school days after the date on which the decision to take action (refer the student for long-term removal or a series of short-term removals that constitute a pattern) is made and determine whether the conduct in question was a manifestation of the student’s disability;

2. Review the IEP, teacher observations, and information provided by the parent and all other relevant information in the student record;

3. The IEP team shall determine the conduct to be a manifestation of the student’s disability if:

   a. The conduct “was caused by or had a direct and substantial relationship”; and

   b. The conduct “was the direct result of PWCS failure to implement the IEP.”

E. If the MDR team determines that PWCS failed to implement the IEP, the school shall remedy the deficiencies immediately.
F. If the behavior is a manifestation of the student’s disability, return the student immediately to educational placement from which removed or other agreed upon placement, implement the FBA/BIP process, or review and modify the current BIP as necessary to address the behavior.

G. If the behavior is not a manifestation of the student’s current disability, apply relevant disciplinary procedures in the same manner and duration as would be applied to students without disabilities except that the student receives services in another setting to include implementation of the FBA/BIP process.

VIII. MDR Appeal

A. If the parent(s) disagrees with the MDR determination or with the placement decision related to the disciplinary process, parent(s) may request an appeal of the MDR finding through the Office of Special Education COR process or by requesting an expedited due process hearing.

1. Parent(s) may request a COR, a local Prince William County procedure which offers an informal method for resolving disputes by making a written request to the Director of Special Education. The COR does not prevent the parent from proceeding with a due process hearing (DPH).

2. Parent(s) may request the expedited DPH in writing to the Virginia Department of Education (VDOE) with a copy to the PWCS Director of Special Education. The PWCS Office of Special Education is responsible for arranging the expedited due process. The hearing must occur within 20 school days of the date the request for the hearing is filed.

B. Placement during the appeal process is the IAES pending the COR or DPH decision or until the expiration of disciplinary period, whichever comes first, unless the parent and PWCS agree otherwise.
IX. Special Circumstances

A. The school administrator, in consultation with the Associate Superintendent, may remove a student with a disability to an appropriate IAES for up to 45 school days regardless of the determination that the behavior is a manifestation of the student’s disability if at school, on school premises or at a school function:

1. The student carries or possesses a dangerous weapon.

2. The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance.

3. “The student inflicts serious bodily injury upon another person that involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a body member, organ or mental faculty.”

B. Refer to 8VAC20-81-10 for applicable definitions of “weapon,” “controlled substance,” and “serious bodily injury.”

X. Protections for Students Not Yet Eligible for Special Education and Related Services

A. If PWCS knew that a student who has not been determined eligible as a student with a disability before the behavior that precipitated the disciplinary action occurred, the student who violates the “Code of Behavior” may assert any of the protections (e.g. an expedited evaluation, and if eligible, an MDR and an IEP) as a student with a disability.

B. PWCS is deemed to have a basis of knowledge that the student was a student with a disability if before the behavior that precipitated the disciplinary action occurred:

1. The parents expressed concern to school staff, orally or in writing, that the student is in need of special education and related services;

2. A special education evaluation was requested by the parent(s); or

3. School staff expressed concern about a pattern of behavior demonstrated by the student to PWCS supervisory personnel.
C. PWCS would not be deemed to have a basis of knowledge that a student is a student with a disability if:

1. The parents failed to allow a previous evaluation or refused special education services; or

2. The student has been evaluated and determined ineligible for services.

D. When a basis of knowledge exists, PWCS must:

1. Conduct an expedited evaluation/eligibility process, generally within 20 school days;

2. If the student is determined eligible, conduct an MDR following the eligibility determination and develop an IEP to provide services in school or in the IAES, as determined by the outcome of the MDR; and

3. If the student is determined not eligible, continue to impose the disciplinary procedures as indicated for all students.

E. When there is no basis of knowledge by PWCS before the disciplinary measures are taken, the student may receive the same discipline applied to a student without a disability who engage in comparable behaviors.

XI. Evaluations requested while the student is subjected to disciplinary measures must be conducted in an expedited manner.

A. During the evaluation and eligibility process, the student remains in the discipline placement determined by school personnel, without educational services.

B. If the student is found eligible for special education services under the Individuals with Disabilities Education Act, PWCS must develop an IEP based on the evaluation and input from the parents and provide special education and related services as required for a student with a disability who is disciplined.
XII. Referral to and action by law enforcement authorities.

A. PWCS shall report crimes and shall not prevent law enforcement or judicial authorities from exercising their responsibilities with regard to crimes committed by students with disabilities to the extent such action applies to students without disabilities.

B. PWCS will provide copies of special education and disciplinary records of the student for consideration by appropriate authorities in accordance with PWCS requirements for the management of student records.

C. When PWCS invokes disciplinary action against a student for a crime, PWCS will follow the disciplinary procedures previously outlined, to include, if applicable, conducting an MDR.

XIII. When student records are transmitted to VDOE or between schools, they must include statements of current or previous disciplinary action taken against the student as well as the current IEP when indicated.

The Associate Superintendent for Student Learning and Accountability (or designee) is responsible for implementing and monitoring this regulation.

This regulation and related policy shall be reviewed at least every five years and revised as needed.