

**Provo City School District**  
**Policy Series 3000: Students**

**3310 P1**

**Safe Schools**

**Section 1 - Definitions**

**“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 the suspension.

**“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 the suspension. However, the District will work with parents to provide alternative educational placements and programs for students, where appropriate and feasible.

**“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.

**“Firearm”** includes, but is not limited to, handguns, rifles, shotguns, or any device from which is expelled a projectile by action of an explosive.

**“Facsimile firearm” or “look-alike firearm”** includes, but is not limited to, starter pistols, air-soft guns, cap guns, or toy guns.

**“Weapon”** includes, but is not limited to, firearms, knives, explosive device, noxious or flammable material, martial arts weapons, or other dangerous object, material, or device that is used for, or is readily capable of, causing death or serious bodily injury.

**“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.

**“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. 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.

**“Tobacco”** shall include cigarettes, cigars, pipes, smokeless, electronic or other forms of tobacco products in any form.

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.

**“Gang activities”** include, but are not limited to, any of the following:

- 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 or affiliation with any gang;
- Committing any act or using any speech, either verbal or non-verbal (i.e., flashing signs, graffiti, gestures, handshakes, etc.) that demonstrates membership in or affiliation with a gang;
- Soliciting other for membership in a gang;
- Requesting any person to “pay for protection” or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;
- Possessing a weapon, alcohol, tobacco, controlled substance, drug paraphernalia, or other contraband;
- Committing any illegal act; OR
- Encouraging or inciting another person to act with physical violence upon any other person or cause damage to property.

**“Pornographic or indecent material”** means any material: (a) defined as harmful to minors, such as a description or representation, in any form whatsoever, of nudity, sexual conduct, sexual excitement, abuse, etc.; (b) described as pornographic in when applying community standards, appeals to the unhealthy interest in sex, is patently offensive, and does not have any serious literary, artistic, political, or scientific value; or (c) describes illicit sex or sexual immorality.

**“Corporal punishment”** means the intentional infliction of physical pain upon the body of a student as a disciplinary measure.

**“District Disciplinary Committee”** is the committee created at the discretion of the Executive Director 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.

**“District Disciplinary Hearing Officer”** the district will employ an impartial hearing officer to review decisions made by the disciplinary committee and render a decision that ensures student disciplinary due process.

## **Section 2 – Discipline Guidelines**

### **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 Provo City School District to recognize and honor disciplinary action imposed upon a student by other school districts and schools. Accordingly, Provo City 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 Provo City School District on the basis of having been suspended or expelled from another school district or school during the preceding twelve (12) months.

### **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.

### **Alternative 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 behaviors 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.

### ***Emergency Issues and/or Safety Concerns***

*A principal may suspend a student for up to ten (10) school days while investigating issues related to student safety or other emergency concerns that have a direct and substantial ability to disrupt the educational environment within the school or overall school district.*

### **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.

## **Authority to Administer Corrective Discipline**

School principals or assistant principals have the authority to suspend a student for up to ten (10) school days.

The Superintendent and his/her designees may suspend a student for up to one (1) school year (one hundred and eighty (180) school days).

The Board of Education may expel a student for a fixed or indefinite period of time. However, all expulsions shall be review by the Superintendent or his/her designee and the conclusions reported to the Board at least once each school year.

## **Grounds for Disciplinary Action**

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

- 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.
- Failing to provide proper identification or information upon request by school authorities
- Discrimination and harassment (including sexual, racial, religious, disability, or any other classification protected by law).
- Engaging in any gang activities.
- Possession or use of pornographic or indecent material on school property.
- 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.
- Criminal mischief; terroristic threats; intimidation; harassment; bullying; hazing; behavior or threatened behavior which poses an immediate and significant threat to the welfare, safety, or moral of other students or to school personnel or to the operation of the school.
- 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.
- Improper use of cellular phones, Mp3 players, iPods, laser pointer, and other electronic devices.
- The use, possession, sale, or distribution of drugs or controlled substances, imitation controlled substances, other similarly harmful substances, or drug paraphernalia. It further bans the misuse of over-the-counter products by students. Any medications must be under the control of and administered through the school nurse or a designated employee.

- The use, possession sale, or distribution of alcoholic beverages.
- The use, possession, sale, or distribution of tobacco products.
- 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.
- 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.
- Arson
- Misuse of computers email, or the Internet.
- Truancy or attendance violations.
- Violations 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; indecent exposure; or wearing anything that materially disrupts, or is reasonably anticipated to materially disrupt, the educational environment.
- 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.
- The commission of any act which would constitute a crime under federal, state, or local law.
- 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.
- 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. 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 interest 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.

### **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.

### **Section 3 - Continuum of Consequences**

#### **A. Discipline Levels and Consequences**

##### **Level 1**

Level 1 acts of misconduct include, but are not limited to, the following:

- 1-1 Loitering
- 1-2 Profane, obscene, racist, indecent, immoral, or seriously offensive language, gestures, indecent propositions, or exhibitions
- 1-3 Wearing/displaying of gang apparel, signs or paraphernalia
- 1-4 Displaying any behavior that is disruptive
- 1-5 Failing to provide proper identification or information upon request by school authorities
- 1-6 Insubordination and/or defiance
- 1-7 Fighting – two people, no injuries
- 1-8 Sexual harassment I
- 1-9 Possession of an incendiary device
- 1-10 Use of an interfering device
- 1-11 Vandalism I (damage under \$200.00)
- 1-12 Harassment I
- 1-13 Dress or grooming violation
- 1-14 Bullying I: Taunting, teasing, name-calling, spreading rumors, threatening or obscene gestures, excluding others from a group or manipulation of friendship.
- 1-15 Cyber bullying
- 1-16 Theft I (less than \$299.00)

##### **Disciplinary Action**

Minimum: Student/Administrator conference and/or suspension up to 10 school days

Maximum: Suspension and referral to the District Disciplinary Committee for alternative placement or suspension up to 90 school days

##### **Level 2**

Level 2 acts of misconduct include, but are not limited to, the following:

- 2-1 Criminal activity
- 2-2 Theft (\$300.00-\$999.00)
- 2-3 Possession of a weapon (real, look alike, or pretend)
- 2-4 Assault
- 2-5 Fighting – with injury or injuries or involving more than two people
- 2-6 Trespassing
- 2-7 Harassment II
- 2-8 Indecent exposure
- 2-9 Use of an incendiary device
- 2-10 Vandalism II (damage of \$200.00 or more, but less than \$1000)
- 2-11 Sexual harassment II

- 2-12 Hazing
- 2-13 Gang Involvement II (any Level 1 violation committed while involved in any gang activity)
- 2-14 Bullying II – Hitting, kicking, physical harm, destruction of property, enlisting someone to assault someone for you.
- 2-15 Cyber bullying

### **Disciplinary Action**

Minimum: Student/Parent/Administrator conference and/or suspension up to 10 school days

Maximum: Suspension and referral to the District Disciplinary Committee for alternative placement or suspension up to 180 school days

### **Level 3**

Level 3 acts of misconduct include, but are not limited to, the following:

- 3-1 Possession of a firearm
- 3-2 Use of a weapon (real\*, look alike, or pretend)
- 3-3 Aggravated assault
- 3-4 Arson
- 3-5 Extortion
- 3-6 Sexual battery
- 3-7 Placing any person in imminent danger
- 3-8 Assault upon any school personnel
- 3-9 Vandalism III (damage over \$1,000)
- 3-10 Gang Involvement III (any Level 2 violation committed while involved in any gang activity)
- 3-11 Theft III (more than \$1,000.00, which is a felony)

### **Disciplinary Action**

#### Any Level 3 Violation

Parents and police will be notified and the student suspended for up to ten school days during which time the student will be referred to the District Disciplinary Committee for alternative placement, suspension, or expulsion

### **B. Drug and Alcohol Explanation and Consequence**

#### **Disciplinary Action: Use or Possession of Alcohol, Drugs, Drug Paraphernalia, or other Controlled Substances.**

#### First Violation

A student may be suspended from school for up to 10 school days and referred to the District Disciplinary Committee for alternative placement or suspension up to 90 school days. Students may be permitted to continue in school if student enrolls in and attends a district-approved intervention program with parent.

1. The principal or designee, during the suspension period, shall:
  - a. Notify the appropriate law enforcement agency and give them all confiscated evidence and information;
  - b. Notify the parents;

- c. Schedule a parent conference during the suspension period; review with the student and parent the Provo City School District Policies and Procedures on Attendance, Orderly Conduct, Safe Schools and Substance Abuse; and
  - d. Refer the student and parent to the school's designated student assistance program and/or to an approved prevention program.
2. The student shall:
    - a. Reveal the source of material associated with this violation;
    - b. Attend with parent an approved prevention program, the cost of which will be assumed by the parent;
    - c. Not participate in school-or district-sponsored activities until any suspension has been removed or ended.

Failure of the student to comply with any of the above will result in a referral to the District Disciplinary Committee for alternative placement or suspension, for up to 90 school days.

### Second Violation

A student shall be suspended from school for 10 days, during which time the student will be referred to the District Disciplinary Committee for suspension up to 90 school days.

1. The principal or designee shall:
  - a. Notify the appropriate law enforcement agency and provide the agency with all confiscated evidence and information; and
  - b. Notify the parents and schedule a conference.
2. The student shall:
  - a. Explore education options available during the suspension period; and
  - b. Not participate in school-or district-sponsored activities or programs until he/she has been reinstated by the District Disciplinary Committee.

### 3. Reinstatement

If a student desires to return to school during the suspension period, he/she must petition the District Disciplinary Committee and show evidence that he/she has done all of the following:

- a. Participated in a formal drug assessment, with the cost of the assessment assumed by the parent
- b. Follow all assessment requirements
- c. Show evidence of having completed the most appropriate level of intervention program based on the assessment by a licensed individual or agency, with the cost of the intervention program assumed by the parent and
- d. Show evidence that he/she has personally revealed to school administration the source of the alcohol or controlled substance associated with the violation.

Failure of the student to comply with any of the above will result in a referral to the District Disciplinary Committee for alternative placement or suspension, for up to 90 school days.

### Third Violation

The student shall be suspended from school for 10 days during which time the student will be referred to the District Disciplinary Committee for alternative placement or suspension, for up to one school year, or to the Board for expulsion from the school.



1. The principal or designee shall:
  - a. Notify the appropriate law enforcement agency;
  - b. Provide the agency with all confiscated evidence and information; and
  - c. Notify the parents and schedule a conference.

**Disciplinary Action: Sale or Distribution of Alcohol, Drugs, Drug Paraphernalia, or other Controlled Substances.**

The student shall be suspended and referred to the District Disciplinary Committee for alternative placement or suspension, for up to one school year, or to the Board for expulsion.

1. The principal or designee shall:
  - a. Notify the appropriate law enforcement agency;
  - b. Provide the agency with all confiscated evidence and information; and
  - c. Notify the parent.
2. If a student desires to return to school, he/she must petition the District Disciplinary Committee and the Board in writing and show evidence that he/she has done the following:
  - a. Participated in a formal alcohol and/or controlled substance abuse assessment, with the cost of the assessment assumed by the parent;
  - b. Follow all assessment requirements
  - c. Successfully completed the most appropriate level of intervention program based on assessment from a licensed individual or agency, with the cost of the intervention program assumed by the parent; and
  - d. Personally revealed the source of materials associated with the violation to the school administrator.

**C. Tobacco Explanation and Consequences**

**Statement on Tobacco Use**

Provo City School District prohibits any student use, possession, sale or distribution of tobacco/tobacco products.

Disciplinary action, independent of any court action, will be taken by the school district for any violation of the foregoing statement. All contraband will be confiscated.

**Disciplinary Action for Tobacco Use**

First Violation

- The principal or designee shall:
- a. Issue a citation; and
  - b. Notify the parents

Second and Following Violations

1. The principal or designee shall:
  - a. Issue a citation;
  - b. Notify parents; and

- c. Refer the student and parent to an approved assessment and/or approved intervention program, with the cost of the program assumed by the parent.
2. The student shall:
  - a. Participate, with parent, in approved assessment and/or intervention program(s).
  - b. Show evidence of having successfully completed the most appropriate level of intervention program based on the initial assessment, with the cost of the program assumed by the parent.

Failure of a student to comply with or complete the requirements of the referral will result in administrative action.

## **Section 4 - Disciplinary Due Process Procedures**

**A. Regular Education Students:** Whenever a regular education student is subject to discipline for a violation of District policy, the discipline due process procedures of this policy shall be followed.

**Short-Term Suspensions** – Ten (10) consecutive school days or less.

### School Administrator:

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.

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.

The school administrator shall notify the custodial parent(s) or legal guardian(s) verbally or in writing 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.

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

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. If parent cannot be reached it is the responsibility of the school to maintain the student for the remainder of the day.

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

The procedures for due process are designed to protect the rights of students when a disciplinary problem arises. The process is administrative, not judicial. Notification will be given to the student and the parent of the time and place for a hearing and a statement of the alleged act(s) of misconduct. The notice of offenses or charges shall state with reasonable particularity the offense or charge, shall be based upon the information known at the time the notice is issued, and may be subject to amendment upon further investigation or evidence. Due process includes the right to a

hearing, the right to counsel, and the right to appeal.

Procedures for hearings and appeals of disciplinary decisions by a parent/guardian are as follows:

- (1) Discuss the grievance with the teacher or person at the school with whom the disagreement occurred.
- (2) If agreement is not reached, the parent/guardian may meet with the principal.
- (3) If agreement is not reached, the parent/guardian may request an informal hearing through the Office of Student Services. The request shall be in writing and within ten (10) calendar days of the school decision and addressed to the Provo City School District, Executive Director of Student Services. The appeal shall be heard within ten (10) school days.
- (4) If agreement is not reached, the parent/guardian may submit in writing within ten (10) calendar days of the decision and request for a hearing before the Independent Disciplinary Hearing Officer. The appeal shall be heard within ten (10) calendar days and the decision shall be in writing.
- (5) If agreement is not reached, the parent/guardian may submit in writing within fifteen (15) calendar days of the Independent Disciplinary Hearing Officer's decision a request for a hearing before the District Board of Education. If the Board grants a hearing, it shall be in executive session. Following the hearing, the Board shall give its decision in writing.

At each stage of the proceedings, the hearing officer(s) shall conduct a de novo review, and shall hear the matter anew the same as if it had not been heard before and as if no decision had been previously rendered. Hearing officer(s) may receive and consider new documents, information, and witness testimony. However, upon appeal to the Board, the Board shall only consider the documents, information, and witness testimony presented at the hearing conducted by the Independent Disciplinary Hearing Officer.

Failure to appeal to the next step in the appeals process within the time limits specified shall be deemed a withdrawal and final disposition of the matter.

Once the aggrieved party has exhausted all of the administrative remedies herein he or she may appeal to a court of law.

**Long-Term Suspension and Expulsions.** More than ten (10) consecutive school days.

School Administrator:

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.

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.

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.

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 Disciplinary Committee for further disciplinary action. A copy of this written notification shall be sent to the Executive Director of Student Services.

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. If parent cannot be reached it is the responsibility of the school to maintain the student for the remainder of the day.

The school administrator shall notify the District's Executive Director 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.

The procedures for due process are designed to protect the rights of students when a disciplinary problem arises. The process is administrative, not judicial. Notification will be given to the student and the parent of the time and place for a hearing and a statement of the alleged act(s) of misconduct. The notice of offenses or charges shall state with reasonable particularity the offense or charge, shall be based upon the information known at the time the notice is issued, and may be subject to amendment upon further investigation or evidence. Due process includes the right to a hearing, the right to counsel, and the right to appeal.

Procedures for hearings and appeals of disciplinary decisions by a parent/guardian are as follows:

- (1) Discuss the grievance with the teacher or person at the school with whom the disagreement occurred.
- (2) If agreement is not reached, the parent/guardian may meet with the principal.
- (3) If agreement is not reached, the parent/guardian may request an informal hearing through the Office of Student Services. The request shall be in writing and within ten (10) calendar days of the school decision and addressed to the Provo City School District, Director of Student Services. The appeal shall be heard within ten (10) school days.
- (4) If agreement is not reached, the parent/guardian may submit in writing within ten (10) calendar days of the decision and request for a hearing before the Independent Disciplinary Hearing Officer. The appeal shall be heard within ten (10) calendar days and the decision shall be in writing.
- (5) If agreement is not reached, the parent/guardian may submit in writing within fifteen (15) calendar days of the Independent Disciplinary Hearing Officer's decision a request for a hearing before the District Board of Education. If the Board grants a hearing, it shall be in executive session. Following the hearing, the Board shall give its decision in writing.

At each stage of the proceedings, the hearing officer(s) shall conduct a de novo review, and shall

hear the matter anew the same as if it had not been heard before and as if no decision had been previously rendered. Hearing officer(s) may receive and consider new documents, information, and witness testimony. However, upon appeal to the Board, the Board shall only consider the documents, information, and witness testimony presented at the hearing conducted by the Independent Disciplinary Hearing Officer.

Failure to appeal to the next step in the appeals process within the time limits specified shall be deemed a withdrawal and final disposition of the matter.

Once the aggrieved party has exhausted all of the administrative remedies herein he or she may appeal to a court of law.

Student Progress: The Executive Director 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.

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 Executive Director of Student Services to review the suspension; (b) all conditions of the suspension have been satisfied; and (c) the Executive Director of Student Services, student, and parents have agreed upon a plan to avoid recurrence of the problem.

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 statement from students and other 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).

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.

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.

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."

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.

## **B. Student Discipline Procedures for Students with Disabilities (IDEA and 504)**

**Short-Term Suspensions** – Ten (10) consecutive school days or less.

**School Administrator:** In every situation where an eligible student with a disability under the IDEA or Section 504 is subject to discipline for a violation of District or school policy, the school administrator must first ascertain whether the student has been previously suspended during the current school year. 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 with the suspension. 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 a pattern this constitutes a ‘change of placement’ under the IDEA. The school IEP team should conduct a Manifestation Determination.

**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 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?

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; 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.

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.

If a regular education short-term suspension is warranted based on following the processes for a special education student 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.

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.

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

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. If the parent cannot be reached the student will be maintained within the school until the end of the day.

Disagreements between the parents and the school in regards to regular education short-term suspensions should be handled in meetings between parents, school administrators, and the student, if appropriate. If necessary the appeal process listed below will be followed to allow for due process.

The procedures for due process are designed to protect the rights of students when a disciplinary problem arises. The process is administrative, not judicial. Notification will be given to the student and the parent of the time and place for a hearing and a statement of the alleged act(s) of misconduct. The notice of offenses or charges shall state with reasonable particularity the offense or charge, shall be based upon the information known at the time the notice is issued, and may be subject to amendment upon further investigation or evidence. Due process includes the right to a hearing, the right to counsel, and the right to appeal.

Procedures for hearings and appeals of disciplinary decisions by a parent/guardian are as follows:

- (1) Discuss the grievance with the teacher or person at the school with whom the disagreement occurred.
- (2) If agreement is not reached, the parent/guardian may meet with the principal.
- (3) If agreement is not reached, the parent/guardian may request an informal hearing through the Office of Student Services. The request shall be in writing and within ten (10) calendar days of the school decision and addressed to the Provo City School District, Director of Student Services. The appeal shall be heard within ten (10) school days.
- (4) If agreement is not reached, the parent/guardian may submit in writing within ten (10) calendar days of the decision and request for a hearing before the Independent Disciplinary Hearing Officer. The appeal shall be heard within ten (10) calendar days and the decision shall be in writing.
- (5) If agreement is not reached, the parent/guardian may submit in writing within fifteen (15) calendar days of the Independent Disciplinary Hearing Officer's decision a request for a hearing before the District Board of Education. If the Board grants a hearing, it shall be in executive session.

Following the hearing, the Board shall give its decision in writing.

At each stage of the proceedings, the hearing officer(s) shall conduct a de novo review, and shall hear the matter anew the same as if it had not been heard before and as if no decision had been previously rendered. Hearing officer(s) may receive and consider new documents, information, and witness testimony. However, upon appeal to the Board, the Board shall only consider the documents, information, and witness testimony presented at the hearing conducted by the Independent Disciplinary Hearing Officer.

Failure to appeal to the next step in the appeals process within the time limits specified shall be deemed a withdrawal and final disposition of the matter.

Once the aggrieved party has exhausted all of the administrative remedies herein he or she may appeal to a court of law.

**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.

**School Administrator:** 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. 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. 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.

**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 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?

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; 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.

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.

If a regular education long-term suspension is warranted based on following the processes for a special education student 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.

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.

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

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. If the parent cannot be reached the student will be maintained within the school until the end of the day.

The procedures for due process are designed to protect the rights of students when a disciplinary problem arises. The process is administrative, not judicial. Notification will be given to the student and the parent of the time and place for a hearing and a statement of the alleged act(s) of misconduct. The notice of offenses or charges shall state with reasonable particularity the offense or charge, shall be based upon the information known at the time the notice is issued, and may be subject to amendment upon further investigation or evidence. Due process includes the right to a hearing, the right to counsel, and the right to appeal.

Procedures for hearings and appeals of disciplinary decisions by a parent/guardian are as follows:

- (1) Discuss the grievance with the teacher or person at the school with whom the disagreement occurred.
- (2) If agreement is not reached, the parent/guardian may meet with the principal.
- (3) If agreement is not reached, the parent/guardian may request an informal hearing through the Office of Student Services. The request shall be in writing and within ten (10) calendar days of the school decision and addressed to the Provo City School District, Director of Student Services. The appeal shall be heard within ten (10) school days.
- (4) If agreement is not reached, the parent/guardian may submit in writing within ten (10) calendar days of the decision and request for a hearing before the Independent Disciplinary Hearing Officer. The appeal shall be heard within ten (10) calendar days and the decision shall be in writing.

(5) If agreement is not reached, the parent/guardian may submit in writing within fifteen (15) calendar days of the Independent Disciplinary Hearing Officer's decision a request for a hearing before the District Board of Education. If the Board grants a hearing, it shall be in executive session. Following the hearing, the Board shall give its decision in writing.

At each stage of the proceedings, the hearing officer(s) shall conduct a de novo review, and shall hear the matter anew the same as if it had not been heard before and as if no decision had been previously rendered. Hearing officer(s) may receive and consider new documents, information, and witness testimony. However, upon appeal to the Board, the Board shall only consider the documents, information, and witness testimony presented at the hearing conducted by the Independent Disciplinary Hearing Officer.

Failure to appeal to the next step in the appeals process within the time limits specified shall be deemed a withdrawal and final disposition of the matter. Once the aggrieved party has exhausted all of the administrative remedies herein he or she may appeal to a court of law.

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.

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: 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.

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.

Adopted: January 26, 2015