



CONDUCT AND DISCIPLINE POLICY

Governing Board Policy

The Board recognizes that every student should have the opportunity to learn in an environment that 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, the Board 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.)

The Board, therefore, delegates to school administration the responsibility of developing a school-wide plan that follows this policy and state law.

Administration Guidelines

The Administration shall take appropriate disciplinary action when students engage in behavior that disrupts the educational environment, threatens or harms persons or property, or disrupts school activities. This policy shall be administered according to the following guidelines:

- 1.1 Require student conduct that produces a proper learning environment and respect for the personal, civil, and property rights of all members of the school community;
- 1.2 Require student responsibility for learning and behavior in all grades;
- 1.3 Require parent(s) and guardians of all students to assume proper legal responsibility for their students' behavior, and to cooperate with school authorities in encouraging student self-discipline and discouraging behavior that is disruptive to the school's educational program.
- 1.4 Foster a School and community-wide expectation of good citizenship for students, and a sense of responsibility in the school community for rules and standards of behavior.
- 1.5 Discipline when students need additional teaching and practice in order to control their own behavior.
- 1.6 Administer consequences that are meaningful and effective with the aim of helping the student improve his behavior when a student's actions have been disruptive, dangerous, or unlawful.
- 1.7 Comply with state and federal laws requiring suspension or expulsion for certain types of student behavior.

2. POLICY

2.1 Safe School Environment

It is the policy of the School to promote a safe and orderly school environment for all students and employees. Accordingly, the School holds all students, employees, and other adults to the highest standards of behavior on school grounds and during school-sponsored activities. Criminal acts or disruptive behavior of any kind will not be tolerated and any individual who engages in such activity will be subject to school disciplinary action, prosecution, or both. *See NPA Safe School Policy.*

2.2 Discrimination Prohibited

It is the policy of the School to provide equal educational and employment opportunity for all individuals. Therefore, the School prohibits all discrimination on the basis of race, color, religion, sex, age, national origin, disability, or veteran status. Complaints of discrimination or unfair application of this policy should be filed promptly with the Director or the Board.

3. DEFINITIONS

3.1 "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 Director'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 to participate in any school activities or events during the period of suspension.

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

3.3 Expulsion for Regular Education and 504 Students

For purposes of this policy, expulsion means removal of a student from the school of attendance for a period longer than ten (10) consecutive school days. Recognizing that students who commit violent or disruptive acts may pose safety problems, the School will work with parent(s) to provide alternative educational placement and programs for the student, where appropriate and feasible. However, the Director retains the authority to exclude the student from all programs, or activities for the period of expulsion. In cases of total expulsion from the School, the legal obligation of complying with state compulsory education laws becomes the sole responsibility of the student's parent(s) or legal guardian.

3.4 Change of Placement for Students with Disabilities under IDEA and Section 504

For purposes of removal of a student with a disability from the student's current educational placement, a change in placement occurs if the removal is for more than ten (10) consecutive school days; or, the student is subjected to a series of removals that constitute a pattern because they cumulate to more than ten (10) school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another. Any "Change of Placement" requires compliance with the procedures outlined in Section 9 of this policy.

4. GROUNDS FOR SUSPENSION, EXPULSION, OR CHANGE OF PLACEMENT

4.1 Suspension

A student may be suspended from school for any of the following reasons:

4.1.1 Frequent, flagrant, or willful disobedience, defiance of proper authority, or disruptive behavior, including, but not limited to: fighting, gang activity, noncompliance with school dress code, harassment, including sexual, racial, or religious harassment, the use of foul, profane, vulgar or abusive language, or other unreasonable and substantial disruption of a class, activity, or other function of the school;

4.1.2 Willful destruction or defacing of school property;

4.1.3 Behavior which poses an immediate and significant threat to the welfare, safety, or morals of other students or school personnel or to the operation of the school;

4.1.4 Possession, distribution, control, use, sale, or arranging for the sale of an alcoholic beverage as defined in Utah Code Ann. § 32A-1-105;

4.1.5 Possession, distribution, control, use, sale, or arranging for the sale of cigars, cigarettes, or tobacco, as defined by Utah Code Ann. § 76-10-101;

4.1.6 Possession, distribution, control, use, sale, or arranging for the sale of contraband, including but not limited to real, look-alike or pretend weapons, fireworks, matches, lighters, electronic cigarettes, alcohol, tobacco, mace, pepper spray, laser pointers, pornography, illegal drugs and controlled substances, drug paraphernalia, or any other material or item that has caused or will imminently cause substantial disruption to school operations;

4.1.7 Inappropriate use or possession of a cellular phone or other personal electronic devices. See NPA Electronic Devices Policy for definitions of personal electronic devices.

4.1.8 Criminal activity or other serious violation involving weapons, drugs, or the use of force which threatens harm or causes harm to the school or school property, to a person associated with the school, or property associated with any such person, regardless of where it occurs.

4.2 Expulsion

A student may be expelled from school for any violations listed under Section 4.1 of this policy if the violation is serious or persistent.

4.3 Weapons - Mandatory Expulsion for One Year, Utah Code Ann. § 53a-11-904(2)(b); 20 U.S.C.A. § 7151

4.3.1 Any student who, in a school building, in a school vehicle, on school property, or in conjunction with any school activity (a) possesses, controls, uses, or threatens use of a real weapon, explosive, noxious or flammable material; or (b) actually uses or threatens to use a look-alike or pretend weapon with the intent to intimidate another person or to disrupt normal school activities; shall be expelled from all school programs and activities for a period of not less than one year, subject to the following:

[a] For purposes of this policy, the term "firearm", "explosive", and "noxious or flammable material" include, but are not limited to: guns, starter pistols, cap guns, bombs, bullets and ammunition, gasoline or other flammable liquids, mace, pepper spray, matches, and lighters.

4.3.2 Students with Disabilities under IDEA and Section 504

Whenever a student receiving Special Education and related services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act is determined to have carried a weapon to school or a school function, the procedures outlined in Section 9 of this policy must be followed.

4.4 Drugs and Controlled Substances - Mandatory Suspension or Expulsion Utah Code Ann. § 53A-11-904(2)(a)

4.4.1 A student shall be suspended or expelled from his/her school of attendance for any of the following reasons:

[a] Use, control, possession, distribution, sale, or arranging for the sale of an illegal drug or controlled substance (which includes alcohol), an imitation controlled substance, or drug paraphernalia in a school building, in a school vehicle, on School property, or in conjunction with any school activity.

[b] Misuse or abuse, distribution, sale or arranging for the sale of prescription medication at school or a school function.

4.4.2 Students with Disabilities under Section 504

Any student identified as being disabled under either Section 504 of the Rehabilitation Act or the Americans with Disabilities Act who currently is engaging in the illegal use of drugs or alcohol shall be suspended or expelled to the same extent as non-disabled students for the possession, use, control, distribution, sale, or arrangement of the sale of illegal drugs, alcohol, or controlled substances on school property or in conjunction with any school activity.

4.4.3 Drug Testing

[a] Any student who is reasonably suspected of violating section 4.4 may be subject to a drug test for cause,

arranged and paid for by the School.

[b] Any student who has been suspended or expelled for a violation of section 4.4 may be required to provide a clean drug test and evidence of drug assessment and drug counseling programs as a condition of readmission to school. Testing and counseling required as a condition of readmission rather than for the purpose of providing justification for the initial suspension or expulsion shall be arranged and paid for by the student's parent(s) or guardian.

[c] Students who refuse to submit to required drug testing and counseling programs, or to cooperate with School officials, with respect to the sharing of appropriate information, may be expelled from the School.

[d] Any student who is suspended or expelled for violation of section 4.4 may be subject to random drug testing, at any time and for any reason, for a period of one year from the date of offense. If the student tests positive, he/she may be expelled from all school programs or activities. Any student who refuses consent for random drug testing under these conditions shall be expelled from all school programs or activities.

4.4.4 Students with Disabilities under IDEA.

Whenever a student receiving Special Education and related services under IDEA knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance while at school or a school function, the procedures outlined in Section 9 of this policy must be followed.

4.5 Gangs

A "gang" as defined in this policy means any ongoing organization, association or group of three or more persons, whether formal or informal, having as one its primary activities the commission of criminal acts, which has a unique name or identifiable signs, symbols, or marks, and whose members individually or collectively engage in criminal or violent behavior to persons or property, or who create an unreasonable and substantial disruption or risk of disruption of a class, activity, program, or other function of a school.

4.5.1 Gang Activity and Apparel Prohibited

Students who engage in any form of gang activity on or about school property, or at any school activity may be suspended or expelled under the terms of this policy. For the purposes of this policy, "gang activities" include, but are not limited to any of the following:

[a] Wearing, possessing, using, distributing, displaying, or selling any clothing, jewelry, apparel, emblems, badges, tattoos or manner of grooming, accessories, symbols, signs, or other thing which is evidence of membership in or affiliation with any gang;

[b] Committing any act or omission or using any speech, either verbal or nonverbal, (flashing signs, gestures, handshakes, etc.) that demonstrates membership in or a affiliation with a gang;

[c] Soliciting others for membership in a gang;

[d] Requesting any person to pay for "protection", claiming "turf", or otherwise intimidating, bullying, retaliating against, threatening, or harassing any person;

[e] Possessing a weapon, controlled substances, drug paraphernalia, or other contraband;

[f] Committing any illegal act;

[g] Encouraging or inciting another person to act with physical violence upon any other person or cause damage to property.

4.5.2 Confiscation of Gang Items

Subject to the search and seizure provisions of this policy, gang paraphernalia, apparel, or weapons may be confiscated by school officials at any time.

4.5.3 Consultation with Law Enforcement Authorities

School officials shall consult with local law enforcement authorities and gang detectives whenever they have questions regarding gang-related clothing, apparel, or other gang activity.

4.5.4 See related information in Navigator Pointe Academy Gang Prevention and intervention Policy

5. AUTHORITY TO SUSPEND OR EXPEL

5.1 Authority to Suspend and Duration of Suspension for Regular Education Students

The Director has the authority to suspend a regular education student for up to ten (10) school days per incident. In considering whether to suspend a student, the Director shall consider all relevant factors, including but not limited to, the severity of the offense, the student's age, disability, academic status and disciplinary record, parental capabilities, and community resources.

5.2 Authority to Suspend and Duration of Suspension for Students with Disabilities

The Director has the authority to suspend a student with disabilities (504 or IDEA) for not more than ten (10) consecutive school days for any violation of school rules, and additional removals of not more than ten (10) consecutive school days in that same school year for separate incidents of misconduct as long as those removals do not constitute a pattern resulting in a change of placement. A school need not provide services during periods of removal of ten (10) days cumulative or less if services are not provided to a student without disabilities who has been similarly removed.

5.3 Authority to Expel and Duration of Expulsion

The School Director may expel a student for violations under this part for a fixed or indefinite period. The Board will annually review expulsions.

5.3.1 Parental Responsibility

If a student is expelled for a period longer than ten (10) days the student's parent or legal guardian is responsible for undertaking an alternative education plan which will ensure that the student's education continues during the period of expulsion. The parent or guardian shall work with designated school officials to determine how the student's education will continue through private education paid for by the parent(s), an alternative program offered by the local school district, or other alternatives which will reasonably meet the educational needs of the student. Costs of educational services which are not provided by the School are the responsibility of the student's parent or guardian.

5.3.2 The parent or guardian and designated school officials may enlist the cooperation of the Division of Family Services, the juvenile court, law enforcement, or other appropriate government agencies in determining how to meet the educational needs of the student.

5.3.3 The School shall contact the parent or guardian of each student under age 16 who has been expelled from all School programs and services at least once a month to determine the student's progress.

5.4 Authority to Institute Change of Placement for Student with Disabilities

Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504, or ADA, procedures outlined in the State of Utah Special Education Rules shall be followed, including prior written notice to parent(s) or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

6. ALTERNATIVES TO EXPULSION, OR CHANGE OR PLACEMENT FOR FREQUENT OR FLAGRANT DISRUPTIVE BEHAVIOR - Utah Code Ann. § 53A-11-906

A continuum of intervention strategies shall be available to help students whose behavior in school repeatedly falls short of reasonable expectations. Prior to expelling a student for repeated acts of willful disobedience, defiance of authority, or disruptive behavior which are not so extreme or violent that immediate removal is warranted, good faith efforts shall be made at the school level to implement a remedial discipline plan to allow the student to remain in the School.

6.1 Before expulsion, or change of placement under this section, school director and staff should demonstrate that they have attempted some or all of the following interventions:

- 6.1.1 Talking with the student;
- 6.1.2 Class schedule adjustment;
- 6.1.3 Phone contact with the parent or legal guardian;
- 6.1.4 Informal parent/student conferences;
- 6.1.5 Behavioral contracts;
- 6.1.6 After-school make-up time;
- 6.1.7 Short-term in-school suspension (ISS);
- 6.1.8 Short-term at-home suspensions;
- 6.1.9 Appropriate evaluation;
- 6.1.10 School service/restitution;
- 6.1.11 Alternative programs;
- 6.1.12 Law enforcement assistance, as appropriate.

6.2 Parental Attendance with Student U.C.A. §53A-11-906(1)-(2).

As part of a remedial discipline plan for a student, a school may require the student's parent or guardian, with the consent of the student's teachers, to attend class with the student for a period of time specified by a designated school official. If the parent or guardian does not agree or fails to attend class with the student, the student shall be suspended in accordance with the provisions of school discipline policies.

7. DUE PROCESS FOR SUSPENSIONS OF TEN (10) DAYS OR LESS

The following procedure shall apply to all students facing suspension of ten (10) school days or less:

7.1 The Director shall notify the custodial parent or guardian of the student of the following without delay: that the student has been suspended, the grounds for the suspension, the period of time for which the student is suspended, and the time and place for the parent or guardian to meet with a designated school official to review the suspension.

7.2 The Director shall also notify the non-custodial parent, if requested in writing, of the suspension and expulsion of, or denial of admission to their student.

7.2.1 Section 7.2 does not apply to the portion of school records which would disclose any information protected under a court order.

7.2.2 The custodial parent is responsible to provide the school a certified copy of any court order under subsection 7.2.1.

7.3 The Director shall document the charges, evidence, and action taken.

7.4 The student shall be requested to present his/her version of the incident in writing. Students with disabilities or young students who are unable to write their own statements shall be accommodated through the use of tape recorder, scribe, etc.

7.5 If the student denies the charges, the student shall be provided with an explanation of the evidence and an opportunity to present his/her version of the incident to the Director.

7.6 In general, the notice and informal conference shall precede the student's removal from school.

7.7 If, in the judgment of the Director, notice is not possible because the student poses a danger to a person or property or an ongoing threat of disrupting the academic process, he/she may be removed immediately. However, in such cases, the necessary notice and hearing shall follow as soon as possible.

8. DUE PROCESS FOR EXPULSIONS

8.1 If the School Director desires or contemplates expelling a student for longer than ten (10) school days, he/she shall follow the due process for suspensions of ten (1) days or less.

9. DUE PROCESS FOR CHANGE OF PLACEMENT OF STUDENTS WITH DISABILITIES

Where the student is receiving special education services or accommodations on the basis of disability under IDEA, 504 or ADA, procedures outlined in the Utah State Board of Education Special Education Rules shall be followed, including prior written notice to parent(s) or guardians regarding their procedural due process rights, before any long-term disciplinary action or change of placement takes place.

9.1 Required Services

9.1.1 504 and ADA Students

When a determination is made that the conduct of a 504 or ADA student is not a manifestation of the student's disability, the student shall be subject to the same disciplinary consequences as regular education students, up to and including expulsion from school without educational services. (See OSEP memorandum of April 26, 1995)

9.1.2 IDEA

A school need not provide services during periods of removal to a student with a disability under IDEA who has been removed from his or her current placement for ten (10) school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed.

If a student with a disability under IDEA has been removed from his or her current placement for more than ten (10) school days in the same school year, for the remainder of the removals, the school shall provide services to the extent necessary to enable the student to progress in the general curriculum and appropriately advance toward achieving the goals set out in the student's IEP. School personnel, in consultation with the student's special education teacher, determine the extent to which services are necessary to enable the student to appropriately progress in the general curriculum and advance toward achieving the goals set out in the student's IEP.

9.2 Change of Placement for Weapons or Drugs

A student's IEP Team may order a change in placement of a student with a disability to an appropriate interim alternative educational setting for the same amount of time that a student without a disability would be subject to discipline, but for not more than forty-five (45) days, if:

9.2.1 The student carries a weapon to school or to a school function; or

9.2.2 The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function.

9.3 Change Placement Due to Student's Serious Misconduct

School officials may request an expedited due process hearing in order to change the placement of a student with a disability to an appropriate interim alternative educational setting, recommended by the student's IEP team, for not more than forty-five (45) days. A hearing officer may order such a change, if he/she:

9.3.1 Determines that school officials have demonstrated by substantial evidence that maintaining the current placement of a student is substantially likely to result in injury to the student or others;

9.3.2 Considers the appropriateness of the student's current placement;

9.3.3 Considers whether school officials have made reasonable efforts to minimize the risk of harm in the student's current placement, including the use of supplementary aids and services; and

9.3.4 Determines that the interim alternative educational setting being recommended by school officials (1) has been selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student's current IEP, that will enable the student to meet the goals set out in that IEP: and (2) includes services and modifications designed to address the behavior at issue so that it does not recur.

9.4 Parental Notice

As soon as a decision is made by school officials to remove a student with a disability from his/her current placement for more than ten (10) school days, the student's parent(s) must be notified of that decision and of all procedural safeguards outlined by law and School policy.

9.5 IEP Meetings for Manifestation Determination

9.5.1 Immediately, if possible, but in no case later than ten (10) school days after the date on which the decision is made to remove the student from the current placement, a review must be conducted of the relationship between the student's disability and the behavior subject to the disciplinary action.

9.5.2 The manifestation review must be conducted by the student's IEP team and other qualified school personnel.

9.5.3 In conducting the manifestation review, the IEP team may determine that the behavior of the student was not a manifestation of student's disability only if the IEP team:

[a] First considers, in terms of behavior subject to disciplinary action, all relevant information, including:

- (i) Evaluation and diagnostic results, including the results or other relevant information supplied by the parent(s) of the student;
- (ii) Observations of the student; and
- (iii) The student's IEP and placement; and

[b] Then determines that:

- (i) In relationship to the behavior subject to disciplinary action, the student's IEP and placement were appropriate and the special education services, supplementary aids and services, and behavior intervention strategies were provided consistent with the student's IEP and placement;
- (ii) The student's disability did not impair the ability of the student to understand the impact and consequences of the behavior subject to disciplinary action; and
- (iii) The student's disability did not impair the ability of the student to control the behavior subject to disciplinary action.

9.5.4 If the IEP team determines that any of the standards above were not met, the behavior must be considered a manifestation of the student's disability.

9.5.5 Determination that Behavior was not Manifestation of Disability

If the result of the manifestation review is a determination that the behavior of a student with a disability was not

a manifestation of the student's disability, the relevant disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner in which they would be applied to students without disabilities, except that a free appropriate public education must still be made available to the student if the student is suspended or expelled from school.

9.6 IEP Meetings for Functional Behavioral Assessments

9.6.1 Post-Discipline Functional Behavioral Assessments

If school officials have not conducted a functional behavioral assessment and implemented a behavioral intervention plan for the student before the behavior that results in a removal from school for longer than ten (10) school days or a change of placement to an interim alternative educational setting, school officials shall convene an IEP meeting to develop an assessment plan and appropriate behavioral interventions to address that behavior.

9.6.2 Pre-Discipline Behavioral Intervention Plans

If the student already has a behavioral intervention plan, the IEP team shall review the plan and modify it, as necessary, to address the behavior.

9.7 Placement During Appeals and Stay Put

9.7.1 If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the forty-five (45) day period, whichever occurs first, unless the parent(s) and school officials agree otherwise.

9.7.2 If a student is placed in an interim alternative educational setting and school personnel propose to change the student's placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed change in placement, the student must remain in the current placement (the student's placement prior to the interim alternative education setting), unless school officials succeed in getting an order through an expedited hearing as described in Section 14.1.3.

10. SITE-BASED SAFE SCHOOLS MEASURES

10.1 Closed Campus

The Board hereby authorizes and implements a "closed campus" policy, under which students are prohibited from leaving school grounds during the school day without authorization from the school office and signed out by a parent/legal guardian or approved person from the parent(s)' designated pick-up list.

10.2 Physical Restraint

A school employee may, when acting within the scope of employment, use and apply physical restraint or force as may be reasonable and necessary under the following circumstances:

10.2.1 To protect any person from physical injury;

10.2.2 To take possession of a weapon, other dangerous objects or controlled substances in the possession of a student;

10.2.3 To restrain or remove a student from a situation when that student is violent or disruptive, or is a danger to him/herself or others, or

10.2.4 To protect property from serious damage.

10.2.5 When an employee exercises physical restraint on a student, the employee shall write a report outlining

the incident and the reasons for the use of physical restraint within three (3) days following the incident. This report shall be filed with the Director, who then is responsible for sending a copy of the report to the Board. The original of the report shall be kept in the employee's file.

10.3 Corporal Punishment

School employees may not inflict or cause the infliction of corporal punishment upon a student.

10.4 After-School Detention

10.4.1 Teachers and other school officials shall make reasonable attempts to notify a parent or legal guardian before detaining a student after school.

10.4.2 If detention is necessary for the student's health or safety, an exception may be made to the notice requirement.

11. EXTRACURRICULAR ACTIVITIES

Participation in interscholastic athletics and other extracurricular activities is not a constitutionally protected civil right. Therefore, students who are suspended or expelled may lose the privilege of participation during the period of suspension/expulsion and may not be allowed to invoke due process procedures to challenge the denial of extracurricular participation.

12. DENIAL OF ADMISSION BASED ON PRIOR EXPULSION U.C.A. §53A-11-904(3)

A student may be denied admission to the School if he or she was expelled from that or any other school, during the preceding 12 months.

13. INVESTIGATIONS

Whenever a Director has reason to believe that school rules or policies have been broken, he or she shall proceed with an investigation. However, if the Director believes that laws have been broken or child abuse has occurred, he/she shall request appropriate authorities to conduct the investigation.

13.1 General Investigation Guidelines for Director

The Director has the authority and duty to conduct investigations and to question students pertaining to infractions of school rules, whether or not the alleged conduct is a violation of criminal law. The Director shall conduct investigations according to the following general guidelines:

13.1.1 The Director shall conduct investigations in a way that does not unduly interfere with school activities.

13.1.2 The Director shall separate witnesses and offenders in an attempt to keep witnesses from collaboration of their statements, and have all parties write separate statements concerning the incident under investigation.

13.1.3 The Director shall advise students suspected of wrongdoing orally or in writing of the nature of the alleged offense.

13.1.4 Students must be provided an opportunity to give their version of the incident under investigation, however, refusals to respond or provide information should be respected.

13.1.5 When questioning students as part of an investigation, school staff should have another adult present whenever possible.

13.1.6 The Director shall accommodate students with disabilities and young children unable to write their own statements through use of tape recorders, scribes, etc.

13.1.7 All students involved in the investigation shall be instructed that retaliation is prohibited. Any act of reprisal against any person who has testified, assisted, or participated in any manner in an investigation, proceeding, or hearing is strictly prohibited and subject to disciplinary action.

13.1.8 When the investigation is completed and if it is determined that disciplinary action may be in order, due process requirements must be met. Specifically, the student must be given proper notice of the charges against him/her and the disciplinary action being recommended, as well as a fair opportunity to present his or her version of the facts.

13.2 Coordination with Law Enforcement

The Director has the responsibility and the authority, within his/her respective jurisdiction, to determine when the help of law enforcement officers is necessary, as outlined in this policy and Utah State law.

13.2.1 The school administration may invite law enforcement officials to the school to:

- [a] Conduct an investigation of alleged criminal conduct on the school premises or during a school-sponsored activity;
- [b] Maintain a safe and orderly educational environment; or
- [c] Maintain or restore order when the presence of such officers is necessary to prevent injury to persons or property.

13.2.2 Investigation of Criminal Conduct

During an investigation for violation of school rules, it may become evident that the incident under investigation may also be a violation of criminal law. If the school official has reason to suspect that a criminal act has been committed, and in the opinion of the Director, law enforcement should be notified, the following procedure should be followed:

- [a] The Director shall request that law enforcement officers conduct an investigation during school hours and question students who are potential witnesses to the alleged criminal behavior.
- [b] The school official shall inform the student's parent or legal guardian as soon as possible that the student may have committed a criminal act and that law enforcement authorities will be involved in the investigation.
- [c] Unless circumstances dictate otherwise, questioning of the student by school officials shall not begin or continue until the law enforcement officers arrive.
- [d] Reasonable attempts shall be made to contact the student's parent(s) or legal guardian who, unless an emergency exists, shall be given the opportunity to meet with the student and to be present with the student during questioning by law enforcement authorities.
- [e] The Director shall document the contact or attempted contact with the student's parent(s) or legal guardian. If the Director cannot contact the student's parent or guardian, or if the parent or guardian is unable to be present with the student for questioning, the Director shall be present and document generally what occurs during the interview.
- [f] The student shall not be questioned by the police unless or until he/she has received Miranda warnings from the officer.
- [g] If the parent or student refuses to consent to questioning by law enforcement authorities, the law enforcement authorities shall determine the course of action to be pursued.

13.2.3 Investigation Initiated by Law Enforcement Authorities

School officials shall cooperate with law enforcement authorities who are carrying out official duties such as investigating crimes, serving subpoenas, etc.

- [a] When law enforcement officers can show a need to do so, they shall be permitted to conduct an investigation on school grounds during school hours.
- [b] Such a need will ordinarily be shown if delay in police investigation might result in danger to a person, flight from jurisdiction by a person reasonably suspected of a crime, or destruction of evidence. In such cases:
 - (i) The officers shall be required to get prior approval of the Director or other designated person before beginning an investigation on school premises.

- (ii) The Director shall document the circumstances warranting the investigation as soon as practical.
- (iii) Alleged criminal behavior related to the school environment brought to the Director's attention by law enforcement officers shall be dealt with under the provisions of Section 14.1.
- (iv) Law enforcement officials (investigating school-related or student-related crimes) may not have access to student education records, aside from directory information, unless they have a subpoena or court order, permission from parent or guardian.
- (v) Directory information is limited to a student's name, home address, date of birth, phone number, class schedules and parent(s) address and phone numbers for use in case of emergency.

13.2.4 Release of Student to Law Enforcement Official

- [a] Students may not be released to law enforcement authorities voluntarily by school officials unless the student has been placed under arrest or unless the parent or legal guardian and the student agree to the release.
- [b] When students are removed from school for any reason by law enforcement authorities, every reasonable effort shall be made to contact the student's parent(s) or legal guardian immediately, except in cases of child abuse and neglect. Such effort shall be documented.
- [c] The Director shall immediately notify the Board of the removal of a student from school by law enforcement authorities.
- [d] Where it is necessary to take a student into custody on school premises, the law enforcement officer shall contact the school Director and relate the circumstances necessitating such action.
- [e] Whenever the need arises to make arrests or take students into custody on school premises, the Director shall make reasonable efforts to consult and confer with the law enforcement officers as to how an arrest is to be made.
- [f] When possible, the Director shall have the student summoned to the Director's office before the student is taken into custody.
- [g] When a student has been taken into custody or arrested on school premises without prior notification to the Director, the school staff present shall encourage the law enforcement officers to tell the Director of the circumstances as quickly as possible. If the officers decline to tell the Director, the school staff members present shall immediately notify the Director.

13.2.5 Quelling Disturbances of School Environment

Law enforcement officers may be requested to assist in controlling disturbances of the school environment which a Director has found to be unmanageable by school personnel, and has the potential of causing harm to students and other persons, or to property. Such circumstances include situations where a parent or member of the public exhibits undesirable or illegal conduct on or near school grounds, or at a school event, and who refuse to abide by a Director's directive to leave the premises.

13.2.6 Coordination of Policies with Law Enforcement Authorities

The Director shall meet at least annually with local law enforcement authorities to discuss the School's Safe and Orderly Schools Policy and rules on law enforcement contacts with the School. Law enforcement authorities shall be asked to inform their staffs about the terms of the Safe and Orderly Schools Policy.

14. INVESTIGATION OF CHILD ABUSE AND NEGLECT

Utah law requires that whenever any person, including any school employee, has reason to believe that a child has been subjected to incest, molestation, sexual exploitation, sexual abuse, physical abuse, or neglect, or observes a child being subjected to conditions or circumstances which would reasonably result in such, he/she shall immediately notify the nearest peace officer, law enforcement agency, or office of the Division of Family Services.

14.1 The school shall distribute annually to all school employees copies of the School's procedures for reporting suspected child abuse or neglect and the School's Child Abuse-Neglect Reporting Form.

14.2 If there is reason to believe that a child may have been subjected to abuse or neglect, an oral report shall

be made immediately by the school employee reporting the abuse/neglect with a written report to follow within twenty-four (24) hours.

14.2.1 When making the oral report, always have the person you notify identify himself/herself. The notified person's name shall be entered on the written report.

14.2.2 A copy of the written report shall be put in a Child Abuse-Neglect file to be maintained by the Director, for all reported cases of suspected child abuse or neglect.

14.2.3 The Child Abuse-Neglect Report form shall not be placed in the student's personal file.

14.3 It is not the responsibility of the Director or other school employees to prove that the child has been abused or neglected, or to determine whether the child is in need of protection.

14.3.1 Investigation by staff prior to submitting a report shall not go beyond that necessary to support a reasonable belief that a reportable problem exists.

14.3.2 To determine whether or not there is reason to believe that abuse or neglect has occurred, professional school employees may (but are not required to) gather information only to the extent necessary to determine whether a reportable circumstance exists.

14.3.3 Interviews with the child or suspected abuser shall not be conducted by the Director or school employees.

14.3.4 Notes of voluntary or spontaneous statements by the child shall be made and given to the investigating agency.

14.3.5 Director, school employees, Division of Family Services and law enforcement personnel are required to preserve the anonymity of those making the initial report and any others involved in the subsequent investigation.

14.3.6 Investigations are the responsibility of the Division of Family Services.

[a] Director or other school employees shall not contact the parent(s), relatives, friends, neighbors, etc. for the purpose of determining the cause of the injury and/or apparent neglect.

[b] School officials shall cooperate with social service and law enforcement agency employees authorized to investigate reports of alleged child abuse and neglect, assisting as asked as members of interdisciplinary child protection teams in providing protective diagnostic, assessment, treatment, and coordination services.

14.3.7 Persons making reports or participating in good faith in an investigation of alleged child abuse or neglect are immune from any civil or criminal liability that otherwise might arise from those actions.

15. SEARCHES OF PERSON OR PROPERTY

Given the school's custodial and tutelary responsibility for children, and the Board's intent to preserve a safe environment for all students and staff, the Board recognizes that school officials must have the authority to conduct reasonable searches of students and student property. The School Director will approve any search. School officials engaging in searches of students and property shall abide by the following guidelines:

15.1 General Guidelines for Searches of Person or Property

15.1.1 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 15.2 of this policy.

15.1.2 Searches of Students and Student Property

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

15.2 Searches of Personal Belongings

15.2.1 Personal belongings may be searched by school officials whenever school officials have reasonable suspicions to believe a student is concealing evidence of a policy violation or criminal activity and the items being searched are capable of concealing such evidence. The student may be asked to open personal belongings 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 teacher, or police officer) to observe that the search is not excessively intrusive.

15.2.2 All contraband discovered in a search by school officials shall 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.

15.3 Searches of Person

15.3.1 School officials shall make sure the search meets the following guidelines:

- [a] The search shall be conducted in a private area of the school by a school official of the same sex as the student being searched;
- [b] The search shall be observed by an objective third party of the same sex as the student being searched (i.e., Director, teacher, police officer);
- [c] 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;
- [d] Under no circumstances may school officials require students to remove any other items of clothing or touch students in any way during the search.
- [e] 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 shirts, pants or underwear), law enforcement officers shall be summoned immediately to conduct further search and investigation.
- [f] In general, all questioning and searching of students conducted by law enforcement officers shall proceed according to the investigation guidelines in Section 14 of this policy.

15.4 Documentation of Searches

School officials shall thoroughly document the details of any search conducted of a student's property or person. Documentation shall be made at the time of the search, or as soon as possible thereafter, and shall include the following:

15.4.1 The time, place and date of the search;

15.4.2 The reasonable suspicion giving rise to the search (what did school officials suspect to find during the search);

15.4.3 The name and title of individuals conducting and observing the search;

15.4.4 A statement about evidence that was found or not found as a result of the search;

15.4.5 A statement about who took possession of contraband (i.e., police, school, etc.);

15.4.6 Information regarding the attempts of school officials to notify parent(s) about the search.

16. RECORDS--INTERAGENCY COLLABORATION - 20 U.S.C. § 1232g(h)(i)-(2); U.C.A. § 53A-11-1001-1004

16.1 Board and Director Notification by Juvenile Court and Law Enforcement Agencies.

16.1.1 Within three (3) days of being notified by the juvenile court that a juvenile has been adjudicated or of being notified by a law enforcement agency that a juvenile has been taken into custody or detention for a violent felony, defined in UCA § 76-3-203.5, or an offense in violation of Title 76, Chapter 10, Part 5 Weapons, the President of the Board shall notify the Director of the School.

16.1.2 Upon receipt of the information, the Director shall make a notation in a secure file other than the student's permanent file; and, if the student is still enrolled in the School, the Director shall notify staff members who should know of the adjudication, arrest or detention.

16.1.3 Staff members receiving information about a juvenile's adjudication, arrest or detention may only disclose the information to other persons having both a right and a current need to know.

16.2 Student Discipline Records/Education Records

School officials may include appropriate information in the education record of any student concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.

16.2.1 Disclosure of Discipline Records to Other Educators

School officials may disclose student discipline information described above to teachers and other school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

16.2.2 Disclosure of Discipline Records to Other Agencies

School officials shall not release personally identifiable student discipline records to other government agencies, including law enforcement agencies, unless the agency produces a subpoena or court order (need for standing court order from juvenile court), or unless the student's parent or guardian has authorized disclosure.

17. TRAINING

17.1 All new employees shall receive information about this policy at new employee orientation. All other employees shall be provided information on a regular basis regarding this policy and the School's commitment to a safe and orderly school environment.

17.2 Employees who have specific responsibilities for investigating and resolving safe schools violations shall receive yearly training on this policy and related legal developments.

17.3 The Director of the school shall be responsible for informing students, parent(s), and staff of the terms of this policy including the procedures outlined for investigation and resolution of violations.

18. POLICY DISSEMINATION AND REVIEW

18.1 The school shall compile the annual state-required safe-school reports, including all out-of-school suspensions and expulsions, and submit them for the Board's review.

18.2 A summary of this policy shall be posted in a prominent place in the School. A summary of the policy shall also be published in student registration materials, student and employee handbooks, and other appropriate school publications as directed by the Board.

18.3 This policy shall be reviewed and modified by the NPA Board as necessary.

REFERENCES

Gun Free Schools Act; 20 U.S.C. §7151

Requires schools that receive federal financial assistance to have a policy requiring the expulsion from school for a period of not less than one year of any student who brings a weapon firearm, explosive or flammable material to school.

Individuals with Disabilities Education Act; 20 U.S.C. §1415(K); 34 C.F.R. §300.520-529.

A student with a disability who carries a weapon to school or to a school function, or who knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school or a school function may be placed by school officials in an interim alternative educational setting, in accordance with State law, for not more than 45 days. A hearing officer may order a change in placement for a student with a disability to an appropriate interim alternative educational setting for not more than 45 days if the hearing officer determines that there is substantial evidence that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

Family Educational and Privacy Rights Act; 20 U.S.C. §1232g (h)(1)-(2), 34 C.F.R. §99.36

Allows schools to include appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. Also allows schools to disclose such information to teachers and school officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §§1400-1485.

Assures all children with eligible disabilities a free appropriate public education and related services designed to meet their unique needs.

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

Prohibits discrimination on the basis of disability.

Rehabilitation Act of 1973, 29 U.S.C. §705 (2)(C)(iv).

Stipulates that schools may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student who is an individual with a disability and who currently is engaging in the illegal use of drugs or in the use of alcohol to the same extent that such disciplinary action is taken against students who are not disabled.

Americans with Disabilities Act (ADA), Title II, 42 U.S.C. §12132.

Prohibits public entities from discriminating on the basis of disability.

U. S. Department of Education, Office of Special Education Programs (OSEP)

Memorandum (April 26, 1995). Questions and answers on disciplining students with disabilities.

U. S. Department of Education, Office for Civil Rights (OCR) Memorandum (January 28, 1991) ADA Amendments to Section 504 - Discipline of Students Using Drugs or Alcohol.

Utah Code Ann. § 53A-6-502 - Mandatory Reporting of Physical or Sexual Abuse of Students

Utah Code Ann. § 53A-11-802 - Use of Reasonable and Necessary Physical Restraint or Force

Utah Code Ann. §§ 53A-11-901 to 53A-11-907 - School Discipline and Conduct Plans

Utah Code Ann. §§ 53A-11-1001 to 1004 - Notification of Juvenile Court and Law Enforcement Agencies

Utah Code Ann. §§ 62A-4a-410 - Immunity from Liability

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