

STUDENT DUE PROCESS

- 1.0 Adams 12 Five Star Schools (the “District”) shall provide due process to students, parents and school personnel through procedures consistent with law for the suspension, expulsion or denial of admission of students.
- 2.0 Factors that shall be considered when determining appropriate sanctions and interventions to impose for violations of the Code of Conduct include but are not limited to:
 - 2.1 The age of the student;
 - 2.2 The disciplinary history of the student, including whether the misconduct is isolated or is part of an ongoing pattern;
 - 2.3 Whether the student has a disability;
 - 2.4 The nature of the violation;
 - 2.5 Whether the violation threatened the safety of any student or staff member;
 - 2.6 The likelihood that a lesser intervention would properly address the misconduct;
 - 2.7 The impact the violation had or is likely to have on the school learning environment.
- 3.0 Typical progressions of consequences and interventions for many violations are provided throughout the Code of Conduct policies.
- 4.0 **Referrals to Law Enforcement.** The following occurrences require notification to law enforcement:
 - 4.1 Firearms use or possession;
 - 4.2 Physical assault or suspected physical assault, including sexual assault;
 - 4.3 Any suspected criminal offense involving a weapon;
 - 4.4 Controlled substance violations;
 - 4.5 Bomb threats, arson, or other criminal behavior involving major property damage or loss;
 - 4.6 Other situations as considered appropriate by school administration based on the circumstances at the time, with consideration of factors including, but not limited to, a student’s age, intent, disability, and the actual/potential impact of the student’s behavior on school safety.
- 5.0 **Emergency Removal.** School administrators have the authority to immediately exclude a student from school in an emergency during which the student’s welfare or the welfare of others may be threatened. Emergency removals will be recorded as excused absences.
 - 5.1 Examples of conditions which might result in an emergency removal include, but are not limited to, concerns regarding communicable diseases or mental health crises. Emergency removals should not extend beyond the conclusion of the following school day except by agreement of school administration and parent(s).
- 6.0 **Informal Conference.**
 - 6.1 Upon suspicion that a student has violated the Code of Conduct, and prior to imposing disciplinary sanctions, the principal or designee shall provide the student an opportunity for an informal conference.
 - 6.2 The notice and the conference should be provided in whatever manner is reasonable under the circumstances, including but not limited to personal contact, telephone contact, or written contact. The notice may be given at the beginning of the informal conference.
 - 6.3 In the event that the principal or designee determines that a student poses an imminent threat to the learning environment in the school or creates a dangerous and unsafe environment for students, teachers, and/or other school personnel, an immediate suspension may be imposed without a prior informal conference. In such event the

opportunity for an informal conference shall be provided as soon as is practical following the suspension.

- 6.4 During the informal conference the student shall be informed in reasonable detail about the basis for possible disciplinary sanctions and the nature of the evidence that exists. The student shall be given a reasonable opportunity to respond verbally or in writing at the discretion of school administration, except that a student should not sign a written statement admitting to a mandatory expulsion offense unless a parent is present or as otherwise allowed by law.

7.0 **Suspension.**

- 7.1 Certified staff members designated in writing by a principal, and other District administrators designated by the Superintendent, have the authority to suspend students as described in this policy.
- 7.2 Except as provided in section 7.8 of this policy, if the principal or designee determines that suspension is warranted, the student may be suspended for a period not to exceed five (5) school days. A student may be suspended for a period not to exceed ten (10) school days for mandatory expulsion offenses, as described in District Policy 5100 or when extended suspension is requested and approved by the Superintendent or other District administrative designee. Unless otherwise specified by District policy or law, the duration of a student's suspension shall be at the discretion of the principal or designee.
- 7.3 Reasonable efforts should be made to promptly notify a parent of the suspension and the basis for the suspension.
- 7.4 The parent and the school should confer as to the best way to transfer custody of the student to the parent. Upon transfer of custody, the suspended student will be required to leave the school building and the school grounds immediately.
- 7.5 Law enforcement authorities may be involved in the removal and/or transfer of students in accordance with state law.
- 7.6 Suspended students may not be readmitted to school until a meeting or other acceptable arrangements occur between the parent and the principal or designee. If the parent cannot be contacted or fails to appear for scheduled meetings, the school administration may determine whether the student may be readmitted to school or whether the suspension should be extended. Except when safety concerns exist, the period of suspension should not be extended because such meeting has not taken place.
- 7.7 Absences due to suspension are considered excused, and suspended students may make up missed work according to District Policy 5020.
- 7.8 A student in preschool, kindergarten, first grade or second grade may be suspended for a period not to exceed three (3) school days on the grounds stated in District Policy 5000, unless the principal or designee determines that a longer period of suspension is necessary to resolve the safety threat. Prior to suspending a student in these grades, the principal or designee shall determine that failure to remove the student from school through suspension would create a safety threat that otherwise cannot be addressed, and shall document any alternative behavioral and disciplinary interventions that the school employs before suspending the student.

- 8.0 **Alternative to Suspension.** In some cases, suspended students may be provided the opportunity to remain in school during part or all of the suspension at the discretion of school administration. Alternative to suspension opportunities may include, but are not limited to, having the student and parent complete issue-specific intervention activities, or permitting the parent to attend classes with the student during all or part of the suspension with permission of school administration.
- 8.1 If a student and parent are offered and accept the opportunity to participate in alternative to suspension activities, failure to successfully complete such opportunity according to the schedule established by school administration will terminate the alternative to suspension opportunity resulting in the student being required to serve the full suspension as originally assigned, even if the student has already returned to school at that point.
- 8.2 The principal or designee may collaborate with staff members to determine conditions under which it is reasonable for a parent to accompany a student to school as an alternative to suspension. Parents who are provided the opportunity to attend school with a student as an alternative to suspension may not bring other children to school during the specified period of time.
- 8.2.1 The principal or designee reserves the right to curtail the attendance of the parent if such attendance is disruptive to the educational process.
- 8.2.2 In each individual instance for which use of this alternative is contemplated, the principal or designee shall meet with the student's teacher(s) to determine whether a reasonable basis exists to limit or expand parent attendance.
- 8.2.3 In the event that the student's disruptive behavior continues despite the presence of the student's parent, the use of this alternative to suspension shall end as to that student and the disciplinary process shall continue. Such student may not be offered this alternative during the remainder of the school year.
- 9.0 **Extensions of Suspension.**
- 9.1 The Board of Education has delegated to the Superintendent or District administrative designee the authority to suspend a student for extended periods of time, consistent with law and due process, as set forth below and in section 7.8 of this policy.
- 9.2 The Superintendent or District administrative designee may extend a suspension imposed by the principal or designee. Combined periods of suspension by the principal or designee and Superintendent or designee should not exceed twenty-five (25) days unless otherwise voluntarily agreed by all parties.
- 9.2.1 If it is determined that an extension of suspension is warranted, the student's parent shall be notified of the basis of the extended suspension.
- 10.0 **Suspension Appeals.** Appeals of suspensions must be directed to the building principal within two (2) school days after the suspension is imposed.
- 10.1 The decision of the building principal on appeals of suspensions of five (5) days or less shall be final.
- 10.2 Appeals of suspensions of six (6) or more days shall be made within two (2) school days following receipt of the principal's decision regarding the appeal, and shall be sent to the Executive Director who serves the school, or Superintendent's designee. The decision of the Executive Director or Superintendent's designee regarding the suspension will be final. Further appeal would be subject to the process identified in District Policy 1550.
- 10.3 Students will continue to serve the number of days of suspension imposed by the administrator during appeal proceedings.

- 11.0 **Expulsion.** The District will provide written notice of a student's potential expulsion either in person, by United States mail addressed to the last known address of the student or the parent, or electronically (email), as may be agreed to by the parents and Superintendent's administrative designee. The written notice will include the opportunity to request and/or participate in a due process hearing and confirmation of the time, date and location if such hearing has already been scheduled.
- 11.1 The notice will contain the following basic information:
- 11.1.1 A statement of the allegations leading to the extended suspension and/or potential expulsion;
 - 11.1.2 A statement of the nature of the evidence supporting the charges;
 - 11.1.3 A statement offering the student and parent a hearing regarding the potential expulsion or extended suspension;
 - 11.1.4 A statement that the student may be present at the hearing during the presentation of all information, shall have an opportunity to present relevant information, and may be accompanied and represented by the parent and/or an attorney; and,
 - 11.1.5 A statement that failure to attend or waiver of the opportunity to participate in such hearing constitutes waiver of further rights in the matter.
- 11.2 Prior to referring a student in preschool, kindergarten, first grade or second grade for expulsion, the principal or designee shall determine that failure to remove the student from school through expulsion would create a safety threat that otherwise cannot be addressed, and shall document any alternative behavioral and disciplinary interventions that the school employs before referring the student for expulsion.
- 11.3 Students may be expelled for up to 365 days.
- 11.4 Upon expulsion, a student will be withdrawn from school.
- 11.5 The principal of the expelling school shall determine what, if any, academic credit may be awarded and under what conditions, for the grading period in progress at the time of the expulsion. Expulsions will be recorded on a student's enrollment and discipline history. Expulsions will not be recorded on a student's academic transcript.
- 11.6 Educational alternatives which may be available to students who are expelled include the District's expelled students program, private or parochial school, online or charter school, or homeschooling.
- 11.6.1 The opportunity to participate in the District's expelled students program will be at the discretion of District administration. Failure to comply with expelled student's program requirements may result in the student being withdrawn from the program.
 - 11.6.2 Students who have further violations of the Code of Conduct while expelled may have their expulsion extended.
- 11.7 For students under the age of 17 who are expelled for the remainder of the school year, the parent is responsible for ensuring that the student complies with statutory compulsory attendance requirements.
- 11.8 **Due Process Hearing Procedures.**
- 11.8.1 Due process hearings may be conducted by the Superintendent or designee, including contracted hearing officers. The hearings are closed except to

participants and witnesses unless otherwise agreed by all parties. Final decisions regarding who may participate in a due process hearing will be made by the hearing officer.

11.8.2 Testimony and information will be presented under oath; however, technical rules of evidence will not be applicable and the Superintendent or designee may consider and give appropriate weight to such information or evidence as he/she deems appropriate. The student or his/her representative may question individuals presenting information.

11.8.3 A sufficient record of the proceedings will be kept so as to enable a transcript to be prepared in the event either party so requests. Preparation of the transcript will be at the expense of the party requesting the same.

11.8.4 The Superintendent will render a written opinion within five (5) District working days after the hearing.

11.9 By mutual agreement between the Superintendent or District administrative designee and the student or student's representative, time limits and other conditions of this policy may be waived.

12.0 **Alternative to Expulsion Opportunities.** At the discretion of the principal or designee students who are facing expulsion but yet demonstrate motivation to improve their conduct and remain in school, may be provided the opportunity to avoid expulsion by voluntarily completing an alternative to expulsion program. Alternative to expulsion arrangements require mutual agreement between the student, parent and school administration. Alternative to expulsion agreements typically require the student and parent to successfully complete educational, treatment and/or counseling services. Additional expectations may be imposed depending on the individual issues contributing to expulsion consideration.

12.1 The responsibility for initiating and completing alternative to expulsion programming rests with the student facing expulsion and the parent. Any associated costs will be the responsibility of student and parent, although District staff may assist with referrals to community agencies that may be able to provide low-cost services in some cases. Failure to provide documentation of successful, ongoing participation through completion of the agreed alternative to expulsion services, or failure to begin and successfully complete the agreed services within prescribed time limits, will result in imposition of the full term of the originally requested expulsion. Such expulsion will begin at the time of the notice of failure to successfully complete the alternative to expulsion program. The exact length and timing of such expulsions may be impacted by a variety of factors, including but not limited to grading period breaks.

12.2 Students are permitted to participate in alternative to expulsion services no more than one time per school level (i.e. elementary, middle and high school).

12.3 Based on the severity or aggravating factors of any specific case, the principal or designee may determine that alternative to expulsion is not an appropriate option. This decision is not subject to appeal.

13.0 **Expulsion Appeals.** Appeals of the Superintendent's decision may be submitted for review by the Board of Education by filing a written notice of appeal for board review within ten (10) days of the receipt of Superintendent's written decision. Failure to request an appeal within ten (10) days of the receipt of the written decision will result in a waiver of the right to appeal and the Superintendent's written decision will become final.

- 13.1 The appeal must state specific facts and arguments that support reversal of the expulsion decision on one of the following grounds:
 - 13.1.1 The Superintendent's decision is not supported by the facts established at the hearing;
 - 13.1.2 The student was not afforded procedural due process; or
 - 13.1.3 The student was expelled in violation of District Policy or Board Policy.
 - 13.2 The Superintendent or designee may submit a written response to the appeal to the Board and address matters raised in the request for appeal for inclusion in the record to be considered by the Board.
 - 13.3 If an appeal is timely requested, the Board of Education will review the record and offer the opportunity for representatives of the District and the student to make statements to the Board at a board meeting. No new evidence will be considered unless such evidence was not reasonably discoverable at the time of the hearing. The Board of Education will make a determination as to whether the appeal has merit based on one or more of the grounds stated in 13.1.1, 13.1.2 or 13.1.3.
 - 13.3.1 The Board will provide a written decision within five (5) working days of the meeting.
 - 13.3.2 If the Board agrees with the student's position in the appeal, all school records pertaining to the expulsion will be expunged from the student's file, and a corrected copy of the student's file will be provided to the student's parent/guardian by mail.
- 14.0 **Miscellaneous.**
- 14.1 Recommendations of hearing officers shall not restrict the prerogatives of the Superintendent or designee or the Board of Education to act in accordance with Colorado statutes or District policy or procedure.
 - 14.2 Students who are suspended or expelled are prohibited from attending any District or school sanctioned activity or event, whether on or off campus, as well as from being on any District or school campus or property without the prior written approval of school administration. Failure to abide by this restriction will be considered trespassing, and as such may result in a referral to law enforcement and/or an extension of the student's exclusion from school.
 - 14.3 **Victim Concerns.** When a student is expelled for either behavior on or off school property which is detrimental to the welfare or safety of other students or of personnel, or for serious violations in a school building or on school property, the student may be prohibited from enrolling or re-enrolling in the same school in which the victim of the offense or a member of the victim's immediate family is enrolled or employed as provided by law. Administrative transfers in such situations shall be at the discretion of the Superintendent or District administrative designee and may occur at the time of the expulsion or prior to the conclusion of any expulsion.
 - 14.4 Should a parent request to withdraw a student from school during an active suspension or pending expulsion proceedings, such proceedings will continue through completion with or without participation by the parent(s) or student. Records of such discipline proceedings will be included in educational records provided to the new school of enrollment upon receipt of a valid request for records.
 - 14.5 The District reserves the right to re-open any investigation of Code of Conduct violations involving student safety if newly acquired information or evidence is discovered.

- 15.0 **Criminal Charges.** When the District receives information that a petition to charge or actual charges have been filed against a District student regarding commission of an offense which would constitute a crime of violence, the student shall be suspended pursuant to this Policy for investigation of the circumstances surrounding the matter. In consultation with District administration, the principal shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, or otherwise is likely to provide a negative example for other students, teachers, and other school personnel.
- 15.1 The Superintendent's designee, in consultation with the building principal, shall determine whether the student should continue to be educated in the school, may be appropriately served through alternative education services, or should otherwise be referred for expulsion based on the evidence available.
- 15.2 Alternatively, the principal, in consultation with District administration, may decide to wait until the conclusion of the judicial proceeding(s) related to the case to consider whether an expulsion hearing is warranted. The District shall offer appropriate alternative education services during the period pending the resolution of the juvenile proceeding(s).
- 15.3 A student who is being educated in an alternative education program based on an ongoing criminal case will not be permitted to return to his or her home school until there has been a disposition of the charge(s) and District administrative approval.
- 15.4 If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the District may proceed in accordance with state law to expel the student at that time.
- 15.5 The period which the student spends in an alternative education program will be considered an administrative transfer.
- 16.0 **Discipline of Students with Disabilities.** Except as provided in federal and state law, students with disabilities shall be subject to the District's Conduct and Discipline Code and its policies and procedures governing the discipline of students.
- 16.1 **Definitions of Students with Disabilities.**
- 16.1.1 Students with disabilities include those students receiving special education services under the Individuals with Disabilities Education Act (IDEA) or Section 504 of the Rehabilitation Act of 1973, as amended (Section 504).
- 16.1.2 A student may assert the procedural protections under IDEA if it can be established that prior to engaging in the misconduct leading to the proposed discipline, a parent of the student expressed in writing to supervisory or administrative personnel of the District, or a teacher of the student, that the student is in need of special education services.
- 16.2 **Suspension of Students with Disabilities.**
- 16.2.1 Suspensions of a student with a disability may be conducted in the same manner and for the same reasons as for a student without a disability for a period not to exceed 10 consecutive days.
- 16.2.2 A student with a disability may be suspended for more than one incident of misconduct in a school year if each removal does not exceed 10 school days and cumulatively the removals do not constitute a pattern that is, in effect, a change

of placement. Building administrators, in consultation with the student's special education case manager, will determine if a further removal will constitute a change of placement.

- 16.2.3 Suspensions of students with disabilities exceeding 10 consecutive school days or removals for separate incidents of misconduct that result in a change of placement will necessitate a manifestation determination review. Additionally, the parents will be provided notice of the disciplinary action to take place and procedural safeguards in the same manner and following the same process of notice to parents of students without disabilities.
 - 16.2.4 If a student with a disability is removed from his or her current placement for more than 10 school days in the same school year, school personnel, in consultation with the student's special education case manager will determine the extent to which services are needed, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP. The student may receive, as appropriate, a functional behavioral assessment and behavioral intervention services and modifications that are designed to prevent the misconduct from recurring.
- 16.3 **Expulsion of Students with Disabilities.** When expulsion is being considered for a student with disabilities the following procedures will occur:
- 16.3.1 The parents shall be notified of the decision to take this action in the same manner and following the same processes as notice to parents of students without disabilities and of the additional procedural safeguards accorded by law to students with disabilities not later than the date on which this decision is made; and
 - 16.3.2 As soon as possible, but not later than ten (10) school days after the student is suspended, the IEP team and other qualified District personnel shall review the direct relationship between the student's disability and his or her conduct in a manifestation determination review. The outcome of the manifestation determination review will determine the ability of the District to pursue expulsion.
- 16.4 **Interim Alternative Educational Setting.**
- 16.4.1 School personnel may remove a student with a disability to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability if while at school, on school premises or at a school function the student carries or possesses a weapon; knowingly possesses or uses, sells or solicits the sale of illegal drugs or controlled substances; or has inflicted serious bodily injury on another person. The IEP Team will determine the setting and services to be provided so as to enable the student to continue to participate in the general education curriculum and to progress toward meeting the goals set out in the student's IEP.

16.5 **Students Identified As Disabled under Section 504.** When a student qualifies as a student with a disability pursuant to Section 504 of the Rehabilitation Act of 1973, but does not otherwise qualify for special education services, the student’s “504” Team will convene a review to determine whether the student’s conduct is a manifestation of the student’s disability.

16.5.1 If the behavior is determined not be a manifestation of the student’s “504” disability, school officials may apply the relevant disciplinary procedures in the same manner and for the same duration as the procedures would be applied to students without disabilities, including suspension and expulsion if applicable. Furthermore, educational programming will be provided to the extent that that educational programming would be provided to students without disabilities and is not subject to approval of the Section 504 Team. The student may not be expelled if the behavior is a manifestation of the student’s disability.

LEGAL REFERENCES:

- C.R.S. 22-32-109.1
- C.R.S. 22-33-104
- C.R.S. 22-33-105
- C.R.S. 22-33-106
- C.R.S. 22-33-106.1

CROSS REFERENCES:

- Policy 5000
- Policy 5020
- Policy 5100
- Policy 5440