

STUDENTS

Student Discipline

The Board grants authority to a teacher or principal to hold a student to strict accountability for disorderly conduct in school, on the way to or from school, or during intermission or recess.

Disciplinary action may be taken against any student guilty of gross disobedience or misconduct, including but not limited to instances set forth below:

1. Using, possessing, distributing, purchasing or selling tobacco products, vapor products, alternative nicotine products, or marijuana products (tobacco includes but is not limited to cigarettes, e-cigarettes, cigars, snuff, smoking tobacco, smokeless tobacco or any other tobacco or nicotine innovation) (marijuana products include but are not limited to edible products, ointments, tinctures, marijuana derivatives, marijuana concentrates, and marijuana intended for use by smoking or vaping);
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages, including powdered alcohol. Students who may be under the influence of alcohol will not be permitted to attend school functions and will be treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing or selling illegal drugs or controlled substances (includes medical marijuana), look-alike drugs, drug paraphernalia and any such substances that contain chemicals which produce the same effect of illegal substances. Students who may be under the influence of such substances will not be permitted to attend school functions and will be treated as though they had drugs in their possession;
4. Using, possessing, controlling, or transferring a weapon in violation of the “Possession of a Weapon in a School Building” section of this policy.
5. Using, possessing, controlling, or transferring any object that reasonably could be considered or used as a weapon.
6. Disobeying directives from staff members or school officials or disobeying rules and regulations governing student conduct.
7. Using violence, force, noise, coercion, threats, intimidation, fear, or other comparable conduct toward anyone or urging other students to engage in such conduct, including gang or gang activity, except when physical force is determined to be reasonable and necessary and used as self-defense or the defense of another person after an investigation into such conduct.
8. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person’s property.
9. Engaging in any activity that constitutes an interference with school purposes or an educational function or any other disruptive activity.
10. Unexcused absenteeism. Truancy statutes and Board policy will be utilized for chronic and habitual truants.
11. Hazing or bullying.

12. Forging any signature or making any false entry or attempting to authorize any document used or intended to be used in connection with the operation of a school.
13. Gambling for money.

These grounds stated above for disciplinary action apply whenever a student's conduct is reasonably related to school or school activities, including but not limited to the circumstances set forth below:

- On, or within sight of, school grounds before, during, or after school hours or at any other time when school is being used by a school group.
- Off school grounds at a school-sponsored activity or event or any activity or event that bears a reasonable relationship to school.
- Travel to and from school or a school activity, function, or event.
- Anywhere conduct may reasonably be considered to be a threat or an attempted intimidation of a staff member or an interference with school purposes or an educational function.

### ***Disciplinary Measures***

Disciplinary measures include but are not limited to:

- Expulsion
- Suspension
- Detention, including Saturday school
- Loss of student privileges
- Loss of bus privileges
- Notification to juvenile authorities and/or police
- Restitution for damages to school property

No District employee or person engaged by the District may inflict or cause to be inflicted corporal punishment on a student. Corporal punishment does not include reasonable force District personnel are permitted to use as needed to maintain safety for other students, school personnel, or other persons or for the purpose of self-defense.

### ***Gun-Free Schools***

The Board will expel any student who uses, possesses, controls or transfers a firearm for a definite period of time of at least one (1) calendar year. The Board authorizes the Superintendent, upon written notification to the Board Chair, to modify the discipline on a case-by-case basis, including eliminating the requirement for expulsion. The administrator may immediately suspend a student if, prior to a hearing, there is cause to believe the student brought a firearm to school or possessed a firearm at school. The student may not be expelled unless the trustees find that the student knowingly brought a firearm to school or possessed a firearm at school. A building administrator will notify the criminal justice or juvenile delinquency system of any student who brings a firearm to school.

### ***Possession of a Weapon in a School Building***

The District will refer to law enforcement for immediate prosecution any person who possesses, carries or stores a weapon in a school building, except as provided below, and the District may

take disciplinary action as well in the case of a student. In addition, the District will refer for possible prosecution a parent or guardian of any minor violating this policy on grounds of allowing a minor to possess, carry or store a weapon in a school building.

For the purposes of this section only, “school building” means all buildings owned or leased by a local school district that are used for instruction or for student activities; “weapon” means any type of firearm, a knife with a blade 4 or more inches in length, a sword, a straight razor, a throwing star, nun-chucks, brass or metal knuckles, or any other article or instrument possessed with the purpose to commit a criminal offense.

The Board may grant persons and entities advance permission to possess, carry, or store a weapon in a school building. All persons who wish to possess, carry, or store a weapon in a school building must request permission of the Board at a regular meeting. The Board has sole discretion in deciding whether to allow a person to possess, carry or store a weapon in a school building.

This policy does not apply to law enforcement officers acting in their official capacity.

Legal References:

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|-----------------------------------|--|
| § 16-11-302, MCA                  | Definitions  |
| § 20-1-220, MCA                   | Use of tobacco products in public school building or on public school property prohibited ( <i>revised by House Bill 128</i> ) |
| § 20-4-302, MCA                   | Discipline and punishment of pupils  |
| § 20-5-201, MCA                   | Duties and sanctions ( <i>revised by House Bill 450</i> )  |
| § 20-5-202, MCA                   | Suspension and Expulsion   |
| § 20-5-209, MCA                   | Bullying of student prohibited; self-defense authorized ( <i>revised by House Bill 450</i> )                                   |
| § 45-8-361, MCA                   | Possession of a weapon in school building  |
| § 45-8-317, MCA                   | Exceptions   |
| §§ 50-46-301 <i>et seq.</i> , MCA | Montana Marijuana Act  |
| 20 USC §§ 7101 <i>et seq.</i>     | Safe and Drug-Free Schools & Communities Act   |
| 20 USC § 7961                     | Gun-Free requirements  |
| § 1-1-204, MCA                    | Terms denoting state of mind   |
| House Bill 361                    | Certain District Policies Prohibited   |

Cross References:

Policy History:

Adopted on: 11/11/10

Revised on: 2/10/11, 10/9/14, 8/13/15, 6/9/16, 5/11/17, 7/13/17, 8/12/21, 8/10/23

Misconduct by Students with Disabilities

*Students with Disabilities Covered by Section 504*

A student with a disability under Section 504 shall not be removed from school for more than ten consecutive school days unless the District first determines that the misbehavior is not a manifestation of the student's disability. That determination may be made by the same group of people who make placement decisions. At a minimum, the group shall include persons knowledgeable about the student and the meaning of the evaluation data. The group must have available to it evaluation data that is recent enough to afford an understanding of the student's current behavior.

If it is determined that the misconduct is not caused by the student's disability, the student may be excluded from school in the same manner as similarly situated nondisabled students. If it is determined that the misconduct is caused by the student's disability, the District must determine whether the student's current educational placement is appropriate. See *34 CFR 104.35; 17 IDELR 609; 16 IDELR 491*.

The District may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the District would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. See *29 U.S.C. 705(20)(C)(iv)*.

*Students with Disabilities Covered by IDEA*

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted IEP team. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations.

Continuation of Service - The District is not required to provide services to a student during periods of removal if the student 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. See *34 CFR 300.530(b)*.

Subsequent Removals - After a student has been removed from his or her current placement for more than ten (10) school days in the same school year, during any subsequent days of removal, the District shall provide the services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP. This requirement applies if the subsequent removal is not a change in placement or the behavior is determined not to be a manifestation of the student's disability. If the removal is not a change in placement, school personnel, in consultation with the student's special education teacher, determine the extent to which these services are necessary. If the student is removed

because of behavior that is determined not to be a manifestation of the student's disability, the student's IEP team determines the extent to which these services are necessary. See *20 U.S.C. 1412(a)(1), 1413(a)(1); 34 CFR 300.530 (b)-(d)*.

Procedural Safeguards - Not later than the date on which the decision to take the disciplinary action is made, the District shall notify the student's parents of the decision and of all procedural safeguards *20 U.S.C. 1415(k)(1)*.

Removals of 10 Days or Less - To the extent removal would apply to students without disabilities, school personnel may remove a student with a disability who violates a code of student conduct from the current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than ten (10) school days.

School personnel may order additional removals of not more than ten consecutive school days in the same school year for separate incidents of misconduct, so long as those removals do not constitute a change in placement. See *20 U.S.C. 1415(k)(1)(B); 34 CFR 300.530(b)*.

Removals of More than 10 Days – Change in Placement - Any disciplinary action that would constitute a change in placement may be taken only after the student's IEP team conducts a manifestation determination review. A change of placement occurs if a student is:

- Removed from the student's current educational placement for more than ten (10) consecutive school days; or
- 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.

See *34 CFR 300.530*. School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct. See *20 U.S.C. 1415(k)(1)(A)*.

Manifestation Determination - Except as set forth below at *WEAPONS/DRUG OFFENSES*, within 10 school days of any decision to change the placement of a student because of a violation of a code of student conduct, the District, parents, and relevant members of the IEP committee shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

- Caused by, or had a direct and substantial relationship to, the student's disability; or
- The direct result of the District's failure to implement the IEP.

If the District, the parent, and relevant members of the IEP team determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's

disability. See *20 U.S.C. 1415(k)(1)(E)*; *34 CFR 300.530(e)*. If the determination is that the student's behavior was not a manifestation of the student's disability, the disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that the District shall still provide services, although they may be provided in an interim alternative educational setting. *20 U.S.C. 1412(a)(1)*,

*1415(k)(1)(C)*; *34 CFR 300.530(c), (d)*.

**Behavioral Intervention Plan** - If the District, the parents, and relevant members of the IEP team determine that the conduct was a manifestation of the student's disability, the team shall conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) if the District had not conducted an FBA before the manifestation determination and before the behavior that

resulted in the change in placement. If a BIP has already been developed, the team shall review the BIP and modify it, as necessary, to address the behavior. Except as provided at *WEAPONS /DRUG OFFENSES*, the team shall return the student to the placement from which the student was removed, unless the parent and the District agree to a change in placement as part of the modification of the BIP. See *20 U.S.C. 1415(k)(1)(F)*; *34 CFR 300.530(f)*. If a student with a BIP is subsequently removed and that removal is not a change in placement, the team shall review the BIP and its implementation to determine if modifications are necessary. If one or more members of the team believe that modifications are needed, the team shall meet to modify the plan and its implementation, to the extent the team determines necessary. *CFR 300.530(f)*.

### Interim Alternative Educational Settings

#### *WEAPONS/DRUG OFFENSES*

School personnel may remove a student 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 the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a state or a school district;
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or a school district; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or the District.

See *20 U.S.C. 1415(k)(1)(G)*; *34 CFR 300.530(g)*. In this policy, "**weapon**" means 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, but does not include a pocket knife with a blade of less than two and a half inches in length. *20 U.S.C. 1415(k)(7)(C)*; *18 U.S.C. 930(g)(2)*; *34 CFR 300.530(i)*. "**Controlled substance**" means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812[c]). "**Illegal drug**" means a controlled substance, but does 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 authority under the Controlled Substance Act or any other provision of federal law. *20 U.S.C. 1415(k)(7)(A), (B); 34 CFR 300.530(i)*. . "Serious bodily injury" means bodily injury that involves:

1. A substantial risk of death;
2. Extreme physical pain;
3. Protracted and obvious disfigurement; or
4. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

#### ALTERNATIVE SETTINGS

The IEP team shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*. The setting shall be 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. The setting shall also include services and modifications designed to address the behavior that caused the student to be placed in the alternative setting so that the behavior does not recur. *20 U.S.C. 1415(k)(3); 34 CFR 300.52*.

#### PROPOSED CHANGE AFTER INTERIM PLACEMENT

If 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 placement, the student shall remain in the current placement (the student's placement before the interim alternative educational setting), unless the District requests an expedited hearing. *20 U.S.C. 1415(k)(7)(B); 34 CFR 300.526(b)*. If school personnel maintain that it is dangerous for a student to be in the current placement (placement before removal to the interim alternative educational setting) during the pendency of the due process proceedings, the District may request an expedited hearing. *20 U.S.C. 1415(k)(7)(C); 34 CFR 300.526(c); 19 TAC 89.1191*.

Legal References: Stated throughout policy

Cross References:

#### Policy History:

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