

# additional resources

## PROCEDURAL SAFEGUARDS FOR DISCIPLINE OF STUDENTS WITH DISABILITIES/IMPAIRMENTS<sup>43</sup>

**Schools must support the behavioral needs of students with disabilities/impairments.** When the behavior of a student with a disability/impairment impedes their learning or the learning of other students, federal law requires schools to consider using positive behavioral interventions and to implement appropriate supports and other strategies to address the behavior.

**Students with disabilities/impairments who violate the SCC can be disciplined,** consistent with the procedural safeguards outlined under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973. School officials can suspend students with disabilities/impairments for up to 10 consecutive or 10 cumulative school days in one school year (inclusive of Extended School Year (ESY) days). Educational services do not have to be provided to students with disabilities/impairments during these short-term removals unless services are provided to general education students under similar circumstances.

**Calculating the 10 school-days of suspension.**<sup>45</sup> When a student with a disability/impairment is removed from school for a full or partial day without receiving the instruction/services in their IEP/504 Plan, this can contribute to the 10 school-days of suspension. This can include:

- In-school suspensions;
- Out-of-school suspensions;
- Bus suspensions; and
- Informal removals (e.g., requesting that a parent pick a student up early or keep a student home from school following a disciplinary incident).

The following removals do not count toward the 10 school-days:

- Saturday, before-, and after-school detentions; and
- In-school suspensions and lunch detentions if, during the suspension or detention, the student continues to participate in the general education curriculum, continues to receive their IEP services, and continues to participate with non-disabled peers to the same extent as specified in the IEPs.

<sup>40</sup> All procedural safeguards contained in the SCC and this Appendix are equally applicable to those students with 504 plans.

Administrators are not required to suspend students with disabilities/impairments for the recommended periods set forth in this Code for a single incident. Specifically, the Principal or their designee has discretion to suspend students with disabilities/impairments for fewer days than set forth for a single incident. Federal regulations offer some flexibility in suspending students with disabilities/impairments in excess of 10 school days in one school year in certain circumstances. In order to determine whether the circumstances permit a suspension in excess of 10 days per school year, consultation by the school with the Office for Students with Disabilities (773 553-1800) is required. Without approval from the Office for Students with Disabilities, students with disabilities/impairments cannot be suspended in excess of 10 school days. A school may not suspend a student with a disability/impairment for more than 10 consecutive or cumulative school days in one school year without providing appropriate educational services per the Student's IEP/504 Plan.

When school officials anticipate a referral for expulsion, including referrals requesting emergency placement pursuant to the CPS SCC, the following apply:

- 1) School must provide written notice to the parent/guardian or surrogate parent of the request for an expulsion hearing and the date of a Manifestation Determination Review (MDR) meeting, which must be held within 10 school days of the date of the decision to request the expulsion hearing or emergency placement. School must also provide parent/guardian/surrogate parent with a written copy of Illinois State Board of Education's Notice of Procedural Safeguards for Parents/Guardians of Students with Disabilities.
- 2) At the MDR, the IEP/504 team must:
  - A. Determine whether the misconduct is a manifestation of the student's disability by reviewing all current and relevant information in the student's file, including the student's IEP/504 Plan, evaluation and diagnostic results, information from the parent/guardian, and teacher/staff observations of the student. The behavior is a manifestation of the student's disability if the team finds either or both of the following:
    - 1) the conduct in question was caused by the student's disability or has a direct and substantial relationship to the student's disability;
    - 2) the conduct in question was the direct result of the school's failure to implement the student's IEP/504 Plan (which includes if the student did not consistently receive all services/supports in their IEP/504 Plan)
  - B. Review, and revise if necessary, the student's existing behavior intervention plan (BIP) or develop a functional behavior assessment (FBA) and BIP to address the behavior for which the student is being disciplined.

If the behavior is not a manifestation of the student's disability, school officials may apply the SCC, to the extent they would for students without disabilities, but must continue to provide the student with educational services per their IEP/504 Plan if the removal exceeds 10 school days in one school year. Students with disabilities, even if expelled, must be provided with an appropriate education in an alternative educational setting.

If the behavior is a manifestation of the student's disability, a disciplinary change in placement (e.g., expulsion) cannot occur. Students with disabilities, even if expelled, must be provided with an appropriate education in an alternative educational setting.

While MDRs must be held within 10 school days of a request for emergency placement, students with disabilities/impairments can be emergency placed immediately upon approval of the emergency placement, even if this occurs prior to the MDR. Emergency placements for students with disabilities/impairments can be approved in limited circumstances for up to 45 school days regardless of the results of the MDR.

All MDRs are subject to review by the Office of Students with Disabilities (OSD) and CPS Legal Department.

## REFERENCE GUIDE FOR GROUPS 4, 5 AND 6 BEHAVIORS INVOLVING DANGEROUS OBJECTS, WEAPONS OR LOOK-ALIKE WEAPONS

### SECTIONS 4-13 AND 5-11

If a student simply has any of these objects in his or her possession, but does not use them, (s)he should be recorded to have violated Section 4-13 of the SCC for a first-time violation or 5-11 of the SCC for a second or repeated violation. *If a student uses, or intends to use, any of these objects to inflict harm on someone, the student should be recorded to have violated Section 6-1.*

#### Knives, including but not limited to:

- Steak knife or other kitchen knives
- Pen knives/Pocket knives
- Hunting knives
- Swiss Army knife
- Box cutters
- Razors

#### Tools, including but not limited to:

- Hammers
- Screwdrivers
- Saws

- Crowbars/Metal pipes
- Other objects commonly used for construction or household repair

#### Other Objects, including but not limited to:

- Mace/Pepper spray
- Live ammunition/Live bullets
- Broken bottles or other pieces of glass
- Wooden sticks/boards

### SECTION 6-1

If a student has any of these objects in his or her possession or uses any of these objects, (s)he should be recorded to have violated Section 6-1 of the SCC.

#### Firearms - these include:

- Pistol
- Revolver
- Other firearms
- Any part or portion of a machine gun or rifle

#### Knives - these include only the following types of knives:

- Switchblade knives (open automatically by hand pressure applied to a button, spring or other device in the handle of the knife)

- Ballistic knives (operated by a coil spring, elastic material, or an air or gas pump)

**Explosive Devices/Gases - these include:**

- Tear gas guns
- Projector bombs
- Noxious liquid gas
- Grenades
- Other explosive substances

**Other Objects - these include:**

- Blackjack
- Slingshot
- Sand club
- Sandbag
- Metal/brass knuckles
- Throwing stars
- Tasers/stun guns

**“Look-Alike” Firearms - these include:**

- B.B. guns
- Air guns
- Other objects, including “toys” or replicas that reasonably resemble real firearms

**6-1 SPECIAL CONSIDERATION**

If a student simply has any of these objects, or any other similar object in their possession, they should not be recorded to have violated of the SCC. *If a student uses, or intends to use, any of these objects to inflict bodily harm on someone, the student should be recorded to have violated Section 6-1.*

**Sporting Equipment - these include but are not limited to:**

- Baseball bats
- Golf clubs

**Personal Grooming Products - these include but are not limited to:**

- Nail clippers/files
- Combs with sharp handles
- Tweezers

**School Supplies - these include but are not limited to:**

- Scissors
- Laser pointers
- Pens/Pencils
- Rulers
- Padlocks/Combination locks
- Other objects commonly used for educational purposes

**EXPULSION HEARING AND EMERGENCY ASSIGNMENT GUIDELINES**

**Request for Expulsion Hearing**

- Expulsion is the removal of a student from school for 11 or more consecutive days, up to a maximum of two calendar years.
- If a student’s inappropriate behavior falls within Group 5 of the SCC, a school principal may request an expulsion hearing for the student. A school principal may also request assignment to an intervention program.
- If a student’s inappropriate behavior falls within Group 6 of the SCC, the incident will be automatically referred for Department of Student Adjudication review for a student in 6th through 12th grade or for any student violating section 6-1; a school principal may request an expulsion hearing for a student committing any other Group 6 behavior.

- The CEO’s designee will review the expulsion hearing request and determine whether to refer the student to the Law Department for an expulsion hearing, assign the student to an intervention program, or refer the student back to the school for intervention/support.

### **Emergency Assignment to Interim Alternative Education Setting**

- Students who commit Groups 5 or 6 misconducts may be assigned to an interim alternative education setting on an emergency basis (“emergency assignment”) while a request for an expulsion hearing is pending without being given the opportunity for a hearing before an independent hearing officer.
- Requests for emergency assignment must be approved, facilitated, and implemented by the CEO’s designee. The CEO’s designee may request additional information when considering requests for emergency assignment.
- General education students may be placed in an interim alternative education setting if their presence at the home school poses a continuing danger to people or property, or an ongoing threat of disruption to the academic process. The student will be assigned to the Safe Schools Alternative Program until the expulsion final determination is issued.
- Students with disabilities may be placed in an interim alternative educational setting for a maximum of 45 school days, even in instances where the student’s misconduct is ultimately determined to be a manifestation of his or her disability. Students with disabilities may be referred for emergency assignment when in possession of weapons or drugs, or for inflicting serious bodily injury on another person while on school grounds or at a school-sponsored event. The parent or legal guardian may request a due process hearing to challenge the emergency assignment.

### **Expulsion Hearing Procedures**

- The Law Department will schedule expulsion hearings and send parents/guardians a notice letter within a reasonable time frame. The notice will provide a description of the incident, the date of the incident, the SCC inappropriate behavior code(s), and the place, time and date for the expulsion hearing. The notice will be sent by registered or certified mail, or by personal delivery.
- Before the hearing, school principals are responsible for assisting the Law Department with case preparation by identifying witnesses and relevant documents, and reviewing all documentation regarding the incident to ensure it is complete, accurate, and properly written.
- The hearing will be conducted before an independent hearing officer. The Chief Executive Officer’s representatives will call witnesses to testify and introduce documents regarding the incident. The student may also call witnesses to testify and introduce documents regarding the incident.

<sup>41</sup> This definition does not apply to exclusion of a student from school for failure to comply with immunization requirements or temporary emergency placement.

## Expulsion Final Determination

- After the hearing, the hearing officer will make a recommendation for intervention or discipline, up to expulsion for a set term of up to two calendar years.
- The hearing officer's recommendation may be modified on a case-by-case basis by the Chief Executive Officer or designee.
- If a student is expelled, alternative program placement may be offered for the period of the expulsion.
- The hearing officer may recommend that the student attend an intervention program in lieu of expulsion. A recommendation for intervention is subject to approval by the Chief Executive Officer or designee. A student who is recommended for participation in the intervention program in lieu of expulsion but who fails to successfully complete the program shall be expelled.
- During a term of expulsion, students may not participate in extracurricular activities or school-sponsored events, with the exception of activities or events sponsored by the student's alternative program.

## Transition when Expulsion Complete

- When a term of expulsion is completed, the student will be transferred to their home school.
- For students attending the Safe Schools Alternative Program, a transition meeting, including the student, parents/guardians, alternative school staff members, and home school staff members, will be scheduled to discuss the student's transition back into the home school environment.

<sup>43</sup> For purposes of student discipline, "students with disabilities/impairments" includes (i) students with IEPs, (ii) students with 504 Plans, and (iii) students who, at the time of the misconduct: have an open referral for a special education evaluation or one has been requested (by the parent/guardian or District personnel); are in the process of a special education evaluation; have a need for special education based on their academic and/or behavioral performance; or the parent/guardian has expressed concerns in writing that special education and related services may be needed.

<sup>44</sup> See the ISBE Notice of Procedural Safeguards for Parents/Guardians of Students with Disabilities for additional information about procedural safeguards for discipline of students with disabilities/impairments found at <https://www.isbe.net/Pages/Special-Education-Required-Notice-and-Consent-Forms.aspx>

<sup>45</sup> For additional information about disciplinary removals for students with disabilities/impairments, what contributes to the 10 school-days of suspension, and informal removals, see the Office of Diverse Learner Supports and Services IDEA Procedural Manual which is available at [cps.edu/odlss](https://cps.edu/odlss). See also the ISBE Position Statement on Informal Removals of Illinois Students at <https://www.isbe.net/Documents/ISBE-Position-Statement-Informal-Removals-of-Students.pdf>.

<sup>46</sup> 20 U.S.C. 1415(k)(1)(G) and 34 C.F.R. 300.530(g) list the special circumstances in which a student with a disability can be placed in an interim alternative educational setting for no more than 45 school days: (1) Carries a weapon to or possesses a weapon at school, on school premises, or to or at a school function; (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; or (3) Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function.