

# REGULATION MONTGOMERY COUNTY PUBLIC SCHOOLS

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**Related Entries:** BLC, COB-RA, IOG-RB, JFA, JFA-RA, JGA, JGA-RA, JGA-EA, JGA-EB  
**Responsible Office:** Deputy Superintendent of Schools  
Chief Operating Officer

## Suspension or Expulsion of an MCPS Student

### I. PURPOSE

To establish procedures that define responsibilities of MCPS staff and clarify the rights of the student in the suspension or expulsion process

### II. DEFINITIONS

- A. *In-school suspension* is when a student is removed from class for a specified period of time and provided appropriate school work under staff supervision.
- B. An *out-of-school suspension* is the act of excluding a student from school for a defined period of time for disciplinary reasons with notice to the parent/legal guardian.
- C. An *extended suspension* is the act of excluding a student from the regular school program for more than 10 consecutive days for disciplinary reasons with notice to the parent/legal guardian.
- D. An *expulsion* is the act of excluding a student from participating in the educational program for an indefinite time, with or without specifying a time certain for seeking readmission to MCPS.
- E. *Restitution* is reimbursement required by the principal for damage to or substantial decrease in the value of property that occurs during or results from the violation of state or local law or regulation (unless the student is referred to the Department of Juvenile Justice) in an amount not to exceed \$5,000 or in work assignments or both.
- F. *Confer* means a discussion by any mode, such as, by telephone, electronic mail, face-to-face conversation, a written note, etc., where the views of the teacher are communicated and/or considered.

### III. GUIDELINES

#### A. Major Infractions and Countywide Disciplinary Standards

1. Discretionary and non-discretionary infractions and standard disciplinary actions are defined in Regulation JFA-RA: *Student Rights and Responsibilities*. The nature of these infractions requires consistent action from, and direction for, all schools.
2. For special education students consequences may be modified in accordance with the requirements of law.

#### B. Local School Discipline Plan

1. School administrators, faculty, parents, and students must be involved in the planning and implementation of appropriate disciplinary procedures for each school.
2. *The Agreement between the Montgomery County Education Association and the Board of Education of Montgomery County*, the *Student Rights and Responsibilities* policy, and Regulation JGA-RA: *Classroom Management and Student Behavior Interventions*, require that each school adopt a local disciplinary plan.

#### C. Authority

1. The principal has the authority to suspend a student for a period not exceeding 10 school days.
  - a) The principal may also recommend suspension for an appropriate number of days beyond 10 or recommend expulsion to the field supervisor.
  - b) In the absence of the principal, the principal designee, such as the assistant principal or the teacher in charge, assumes the authority of the principal to impose suspension or recommendation for expulsion.
2. The authority to review suspensions of 10 days or less, to suspend for beyond 10 school days, and to forward recommended expulsions, is delegated to the field supervisor of pupil services.

- a) For suspensions beyond 10 days, the field supervisor of pupil services serves as the superintendent's designee.
  - b) The responsibilities assigned to the field supervisor will be understood to be assigned to the director of special education or designee in any case of suspension or expulsion that involves a student in Intensity 5 attending a special education program.
3. The chief operating officer serves as the superintendent's designee and has the authority to expel a student.
  4. MCPS has the authority and reserves the right to reassign a student to a different school or alternative instructional program for disciplinary reasons.
  5. In those instances where a student violates state or local law and school property is damaged, the principal shall require the student or parent to make restitution up to \$5,000, unless the student is referred to the Department of Juvenile Justice.
- D. Suspension or Expulsion of a Student Over the Age of Majority or a Student with Disabilities
1. In the case of 18-year-old students, if the student resides with parents, contacts must be made with parents as in the case of younger students. The attorney general's interpretation of the Age of Majority Law states that the State Board of Education bylaws, regulations, or rules are exceptions to the Age of Majority Law.
  2. If the student for whom suspension or expulsion is being considered has been found to have a disability, or is suspected of being disabled, or is in the process of being considered for possible special education service, see Section VIII to determine if regular or special procedures are to be followed.

#### **IV. PROCEDURES FOR SCHOOLS**

- A. When the principal responds to a disciplinary infraction that may warrant suspension, he/she will:
1. Meet with the student before imposing any suspension, or as promptly as possible if it is necessary to exclude the student from school because he/she poses an immediate danger to persons or property, or poses an ongoing threat of disrupting the education process, and:

- a) Inform the student of the allegations against him/her and provide an explanation of the evidence
  - b) Provide the student an opportunity to present his/her version of the incident
2. Render a decision to suspend or not suspend
  3. Confer, or have the designee confer, with the teacher who referred the student prior to returning the student to that teacher's classroom if the decision is to not suspend
- B. If the decision is to suspend the student, the principal will:
1. Make every effort to notify the parent/legal guardian of the suspension preferably before removing the student from the school grounds, with consideration given to the age and developmental level of the student. The notification may be oral but must be followed by a written communication to the parent/legal guardian. The notification should contain:
    - a) The effective date and period of the suspension (not to exceed 10 school days)
    - b) An offer to schedule a conference with the parent/legal guardian as soon as possible to review the incident and the subsequent suspension
    - c) A statement advising the parent/legal guardian of the right to appeal (Suspension of 10 days or less may be appealed first to the principal for reconsideration and then to the field supervisor of pupil services. Recommendations for suspension beyond 10 days or expulsion may be appealed directly to the field supervisor.) During the pendency of the appeal process, the student will continue to serve the suspension.
  2. Complete and submit MCPS Form 560-6: *Worksheet for Suspension or Health-Related Exclusion* to the appropriate field supervisor of pupil services
  3. Assure, to the extent possible, that during an out-of-school suspension the student does not return to the school premises unless accompanied by the parent/legal guardian or unless otherwise expressly permitted by conditions of the suspension
  4. Assure that a student who is suspended does not participate in any

school-sponsored activity

5. Confer, or have a designee confer, with the teacher who referred the student before the student may return to that teacher's class
6. Request staff to make reasonable efforts to assist the student to make up tests and other school work missed during the suspension
7. Work with the student and parent/legal guardian to develop a program designed to prevent a recurrence of the disciplinary infraction, if appropriate

**V. PROCEDURES FOR THE FIELD OFFICE**

- A. At the request of the parent/legal guardian, and after reconsideration by the principal, the field supervisor of pupil services may review decisions to suspend students for a period of 10 days or less.
- B. In reviewing the principal's decision to suspend for 10 days or less, the field supervisor of pupil services will:
  1. Review all materials from the principal, pupil services staff, parent/legal guardian, or others concerning the incident, and recommended disciplinary action
  2. Contact by telephone or, at his/her option, arrange a conference
  3. Render a written decision, including the reasons, and notify the parent/legal guardian that he/she may have a right of further appeal to the chief operating officer
- C. If a principal recommends that a student be suspended for more than 10 school days, or recommends expulsion, the field supervisor of pupil services will:
  1. Conduct an investigation, with the assistance of pupil services staff, including appropriate contact with the parent/legal guardian
  2. Inform the parent/legal guardian of the recommended action and notify him/her of the date, time, and place of any conference
  3. Render a decision to:
    - a) Return the student immediately to school

- b) Suspend the student beyond 10 school days and may authorize alternative programs or services, such as Home and Hospital Teaching
  - c) Forward recommendations for expulsion to the Office of the Chief Operating Officer
- D. Placement of students returning from an extended suspension will be made by the field supervisor of pupil services who will consider the following:
- 1. Successful participation in an alternative educational setting, if applicable
  - 2. Successful completion of class assignments from the school, if applicable
  - 3. Compliance with the requirements of the suspension, such as restitution, no trespassing, etc.
- E. The field supervisor of pupil services will advise the parent/legal guardian of the right to appeal an extended suspension within 10 days to the Board of Education or advise the parent that recommendation for expulsion has been forwarded to the chief operating officer.

**VI. PROCEDURES FOR THE SUPERINTENDENT'S DESIGNEE**

When the field supervisor for pupil services supports and forwards the principal's recommendation for expulsion, the chief operating officer will:

- A. Review the investigative report and recommendation of the field supervisor of pupil services regarding the expulsion
- B. Inform the parent/legal guardian of the recommended action and notify the parent/legal guardian of the date, time, and place of the conference
- C. After the conference, render a decision, send a copy to the student or his/her parent/legal guardian, and include notice of the right to appeal within 10 days to the Board of Education

**VII. PROCEDURES FOR RESTITUTION**

- A. As part of a conference with the student and the student's parent/legal guardian, the principal shall require restitution for damage or substantial decrease in value of property that occurs during or results from the violation of state or local law or regulation unless the student is referred to the Department of Juvenile Justice.

- B. Restitution may not exceed the lesser of fair market value or \$5,000.
- C. With parent/legal guardian agreement restitution may result in a student work assignment and/or monetary restitution.

**VIII. PROCEDURES FOR SUSPENSION OR EXPULSION IF THE STUDENT HAS A DISABILITY (SPECIAL EDUCATION)**

- A. General
  - 1. Suspension or expulsion from school may be a proper disciplinary tool for use with students with disabilities, provided that proper procedures are followed and the circumstances warrant the action.
  - 2. Students with disabilities may be suspended for up to 10 school days per school year by following the same procedures used for non-disabled students in accordance with this regulation.
  - 3. Any student with disabilities subject to suspension for more than 10 days or expulsion for behavior determined not to be a manifestation of the disability is subject to the same disciplinary procedures applicable to a student without disabilities except that the student is entitled to continue to receive special education services so as to enable the child to participate in the general education curriculum and to progress towards meeting the goals of the child's IEP.
  - 4. If a student not previously identified as disabled is suspended for more than 10 school days per school year or expelled, and the school system had knowledge that the student was a child with a disability before the behavior occurred, then the student may invoke the procedures available to special education students.
  - 5. If a student not previously identified as disabled is suspended for more than 10 school days per school year or expelled, and the school system had no knowledge that the student is a child with a disability, but during the disciplinary period there is a request to evaluate the student, then it shall be done expeditiously while the child remains in an educational placement determined by school authorities.

6. Students who possess or carry a weapon to school or a school function or who knowingly possess, use, sell, or solicit the sale of a controlled substance, or inflict serious bodily injury to another person while at school or a school function may be placed in an appropriate interim alternative educational setting to be determined by and an IEP developed by a properly constituted IEP team, for not more than 45 school days. These students are entitled to receive services so as to enable the students to participate in the general education curriculum and to progress toward meeting the IEP goals. Additional relief in appropriate cases may be available through a court injunction (see section D).

B. Suspension of More than 10 School Days or Expulsion

A single suspension, or multiple suspensions that total more than 10 school days per school year, or expulsion, are to be treated as a change in educational placement for students with disabilities, and the following procedures apply in addition to the standard procedures for non-disabled students in accordance with this regulation, and Section 7-304, *Education Article, Annotated Code of Maryland*:

1. Prior to the 10th day of removal under suspension for that year, or expulsion, the matter shall be referred immediately to a properly constituted IEP team, chaired by an administrator to determine as soon as possible prior to the 10th day of removal under suspension for that year, or expulsion, whether the conduct which prompted the disciplinary action was a manifestation of the student's disability. (If the IEP team has not convened by the 10th day of removal in that year, the student must be returned immediately thereafter to his/her current educational placement unless the parents/legal guardians agree otherwise, or a court has enjoined the student's return, or the circumstance of VIII A. 6. are met.)
  - a) If necessary, the chairperson should seek to obtain a written waiver of the 10-day IEP team meeting notice from the parent
  - b) The IEP team will determine whether the conduct that prompted the disciplinary action was a manifestation of the student's disability
  - c) In making this determination, the IEP team will consider pertinent information available, including:
    - (1) Evaluation and diagnostic results, including such results or other relevant information supplied by the parents/legal guardians of the child

- (2) Observation of the child
  - (3) The child's IEP and placement
- d) The IEP team will then determine:
  - (1) If the conduct was caused by, or had a direct and substantial relationship to, the child's disability; or
  - (2) If the conduct was the direct result of the school's failure to implement the IEP.
- 2. If the IEP team determines that the student's conduct was not a manifestation of his/her disability, and the student's parents/legal guardians do not appeal that determination, the discipline procedures applicable to non-disabled students in this regulation and Section 7-305, *Education Article, Annotated Code of Maryland*, apply, and the disciplinary process may continue; however, during any suspension of more than 10 days or expulsion, the student is to continue to receive appropriate educational and related services based upon the student's IEP
- 3. If the student's parents/legal guardians request a hearing to contest the determination of the IEP team, the student must be returned to his/her current educational placement immediately after the 10th day of suspension for that year unless the parents/legal guardians agree to an alternative or interim placement or a court has enjoined the student's return to his/her current educational placement or the behavior permits placement in a 45-day interim alternative educational setting
- 4. If the IEP team determines that the conduct which prompted the disciplinary action was a manifestation of the student's disability:
  - a) The IEP team also must consider whether the student's placement continues to be appropriate. If the IEP team determines that the student's placement is no longer appropriate, the Individualized Education Program (IEP) must be revised. The revised IEP must be implemented as soon as possible, but not more than 30 school days following its revision, and approval by the student's parents/legal guardians. The IEP team will give the student's parents/legal guardians written notice of its determination and all applicable procedural safeguards

- b) The student must be returned to his/her current educational placement immediately thereafter unless the parents/legal guardians agree to an alternative or interim placement or a court has enjoined the student's return to his/her current educational placement or the behavior permits placement in a 45-day interim alternative educational setting
  - 5. If the parents/legal guardians request a hearing on the determination of the IEP team, the procedures in MCPS Policy BLC: *Procedures for Review and Resolution of Special Education Disputes* apply.
- C. Based on the foregoing, a student with disabilities may not be removed from his/her current educational placement for more than 10 school days per year unless:
  - 1. The IEP team has determined that the conduct that prompted the disciplinary action was not a manifestation of the student's disability, and the student's parents/legal guardians have not appealed the determination; or
  - 2. The student's parents/legal guardians have agreed to an alternative or interim educational placement; or
  - 3. The student possessed or carried a weapon to school or to a school function or knowingly possessed, used, sold, or solicited a controlled substance while at school or a school function or inflicted serious bodily injury to another person while at school or a school function in which case the student may be placed in an interim alternative educational setting to be determined by an IEP team and an IEP developed by a properly constituted IEP team for up to 45 school days
- D. The above notwithstanding and regardless of the total number of days the student was previously suspended, a student with disabilities may be removed immediately from school upon determination by the principal that the student's presence in school poses an immediate and serious danger to persons. Immediately after the student is removed, the principal must contact the deputy superintendent of schools for purposes of seeking a court order and must convene a manifestation ARD immediately and follow the procedures set forth in this regulation.

**IX. PROCEDURES TO DETERMINE IF SUSPENSION OR EXPULSION IS RELATED TO THE DISABILITY OF A STUDENT QUALIFIED UNDER SECTION 504**

- A. Any student qualified under Section 504 may be suspended for up to 10 school days per school year by following the procedures used for student without disabilities in Sections IV and V above.
- B. In regard to any student who is qualified under Section 504 (and is not a special education student) who is suspended for more than 10 school days per year or expelled, an Educational Management Team (EMT) must follow the procedures described in Section VIII above with the following exceptions:
  - 1. If the EMT determines that the offense that results in the suspension or expulsion is not a manifestation of the student's Section 504 disability and the student is suspended or expelled:
    - a) The procedures in Section V and VI, *Procedures for the Field Office, and Procedures for the Superintendent's Designee*, for general education students apply
    - b) The student is not entitled to implementation of his/her Section 504 plan during the period of suspension or expulsion
  - 2. If the EMT determines that the behavior is a manifestation of the student's disability, a reevaluation will be conducted and modifications to the Section 504 Plan will be made as necessary
  - 3. Appeals of decisions regarding students qualified under Section 504 should be referred to the MCPS Section 504 Coordinator in the Office of Human Relations

**X. MAINTENANCE AND DESTRUCTION OF RECORDS OF SUSPENSIONS AND EXPULSIONS**

- A. If the principal, field supervisor, or chief operating officer determine that a suspension or expulsion should not have occurred, all records pertaining to the discipline proceedings, including MCPS Form 560-6: *Worksheet for Suspension or Health-Related Exclusion*, will be destroyed immediately, and no notation regarding same will be placed in the student's record or communicated to any person.
- B. In order to delete suspension or expulsion records from student computer files, the original copy of the student suspension form, MCPS Form 560-6: *Worksheet for Suspension or Health-Related Exclusion*, should be sent to the Office of Information and Organizational Systems with a note, signed by the principal, to delete that

record. The original will be destroyed after the school has received its verification of the deleted transactions.

- C. All records and documents regarding confirmed incidents of suspension or expulsion will be maintained by the principal in accordance with Regulation JOA-RA: *Student Records*.

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