

# OXFORD PUBLIC SCHOOLS



## ADDENDUM TO STUDENT HANDBOOK

The following information has been revised and added to the student handbook as an addendum for the 2018-2019 schoolyear. This information has also been added to the electronic backpack. This information will be added to the handbook for the 2019-2020 schoolyear:

The Oxford School District does not discriminate on the basis of race, color, sex, religion, national origin, sexual orientation, gender identity, disability, or homelessness.

### STUDENT DISCIPLINE

The District shall include prohibited actions in the student handbook or other publication to be made available to students and parents.

In *Honig v. Doe*, 559 IDELR 231 (EHLR 559:231) (U.S. 1988), the U. S. Supreme Court prohibited certain disciplinary actions that result in a change of placement for a student with a disability (one receiving special education and related services under the IDEA). Generally, a student with a disability cannot be subjected to a disciplinary change of placement if his/her misconduct was caused by, or was directly and substantially related to, his/her disability. A disciplinary change in placement occurs when a student is suspended in excess of ten (10) consecutive school days or subjected to a pattern of short term suspensions in excess of ten (10) school days which constitute a pattern of removal. If the misconduct includes bringing a weapon or drugs to school, if the student has inflicted serious bodily injury on another person, or if he/she otherwise poses a danger to him/herself or others, then different rules governing removal from school will apply. In all events, suspension of more than ten (10) school days is subject to special rules and limitations when the student is disabled under either the IDEA or Section 504. Further, districts must continue to provide a free appropriate public education to IDEA eligible students with disabilities who have been suspended for more than ten (10) school days or expelled.

Beyond the basic due process rights afforded to all students:

- The Individuals with Disabilities Education Improvement ACT (IDEA) and Section 504 of the Rehabilitation Act impose additional procedural requirements when excluding students with disabilities for disciplinary reasons.
- Students with IEPs or 504 Plans or any student whom the District had reasons to know, prior to the incident giving rise to the disciplinary action, might be eligible for special education are entitled to the additional procedural protections.

Outlined below are the procedural protections and disciplinary proceedings that pertain to these situations:

Principals and staff shall not use academic punishment of any form as a consequence to inappropriate behaviors/actions by students.

The Principal may, as a disciplinary measure, remove a student from privileges, such as extracurricular activities and attendance at school-sponsored events, based on the student's misconduct. Such a removal is not subject to the remainder of this policy, law, or regulation.

The Superintendent shall provide each Principal with a copy of the regulations promulgated by DESE.

## **Suspension**

In every case of student misconduct for which suspension may be imposed (except for offenses referenced in the note at the end of this policy), a Principal shall consider ways to re-engage the student in learning; and avoid using long-term suspension from school as a consequence until alternatives have been tried. Alternatives may include the use of evidence-based strategies and programs such as mediation, conflict resolution, restorative justice, and positive behavioral interventions and supports.

### **Notice of Suspension:**

Except for emergency removal or an in-school suspension of less than 10 days, a Principal must provide the student and the parent oral and written notice, and provide the student an opportunity for a hearing and the parent an opportunity to participate in such hearing before imposing suspension as a consequence for misconduct. The Principal shall provide both oral and written notice to student and parent in English and in the primary language of the home if other than English. The notice shall include the rights enumerated in law and regulation. To conduct a hearing without a parent present, the Principal must be able to document reasonable efforts to include the parent.

### **Emergency Removal**

A Principal may remove a student from school temporarily when a student is charged with a disciplinary offense and the continued presence of the student poses a danger to persons or property, or materially and substantially disrupts the order of the school, and, in the Principal's judgment, there is no alternative available to alleviate the danger or disruption.

The Principal shall immediately notify the Superintendent in writing of the removal including a description of the danger presented by the student.

The temporary removal shall not exceed two (2) school days following the day of the emergency removal, during which time the Principal shall: Make immediate and reasonable efforts to orally notify the student and the student's parent of the emergency removal, the reason for the need for emergency removal, and the other matters required in the notice as referenced in the applicable regulation; Provide written notice to the student and parent as required above; Provide the student an opportunity for a hearing with the Principal that complies with applicable regulations, and the parent an opportunity to attend the hearing, before the expiration of the two (2) school days, unless an extension of time for hearing is otherwise agreed to by the Principal, student, and parent; Render a decision orally on the same day as the hearing, and in writing no later than the following school day, which meets the requirements of applicable law and regulation.

A Principal shall also ensure adequate provisions have been made for the student's safety and transportation prior to removal.

### **In School Suspension - not more than 10 days consecutively or cumulatively**

The Principal may use in-school suspension as an alternative to short-term suspension for disciplinary offenses.

The Principal may impose an in-school suspension for a disciplinary offense under this provision, provided that the Principal follows the process set forth in regulation and the student has the opportunity to make academic progress as required by law and regulation.

### **Principal's Hearing - Short Term Suspension of up to 10 days**

The hearing with the Principal shall be to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction.

At a minimum, the Principal shall discuss the disciplinary offense, the basis for the charge, and any other pertinent information.

The student also shall have an opportunity to present information, including mitigating facts, that the Principal should consider in determining whether other remedies and consequences may be appropriate as set forth in law and regulation.

The Principal shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the Principal should consider in determining consequences for the student.

The Principal shall, based on the available information, including mitigating circumstances, determine whether the student committed the disciplinary offense, and, if so, what remedy or consequence will be imposed.

The Principal shall notify the student and parent of the determination and the reasons for it, and, if the student is suspended, the type and duration of suspension and the opportunity to make up assignments and such other school work as needed to make academic progress during the period of removal, as required by law and regulation. The determination shall be in writing and may be in the form of an update to the original written notice.

If the student is in a public preschool program or in grades K through 3, the Principal shall send a copy of the written determination to the Superintendent and explain the reasons for imposing an out-of-school suspension, before the short-term suspension takes effect.

### **Principal's Hearing - Long Term Suspension of more than 10 days but less than 90 days (consecutive or cumulative)**

The hearing with the Principal shall be to hear and consider information regarding the alleged incident for which the student may be suspended, provide the student an opportunity to dispute the charges and explain the circumstances surrounding the alleged incident, determine if the student committed the disciplinary offense, and if so, the consequences for the infraction.

At a minimum, in addition to the rights afforded a student in a short-term suspension hearing, the student shall have the following rights: In advance of the hearing, the opportunity to review the student's record and the documents upon which the Principal may rely in making a determination to suspend the student or not; The right to be represented by counsel or a lay person of the student's choice, at the student's/parent's expense; The right to produce witnesses on his or her behalf and to present the student's explanation of the alleged incident, but the student may not be compelled to do so; The right to cross-examine witnesses presented by the school district; The right to request that the hearing be recorded by the Principal, and to receive a copy of the audio recording upon request. If the student or parent requests an audio recording, the Principal shall inform all participants before the hearing that an audio record will be made and a copy will be provided to the student and parent upon request.

The Principal shall provide the parent, if present, an opportunity to discuss the student's conduct and offer information, including mitigating circumstances, that the Principal should consider in determining consequences for the student.

The Principal shall, based on the evidence, determine whether the student committed the disciplinary offense, and, if so, after considering mitigating circumstances and alternatives to suspension as required by law and regulation, what remedy or consequence will be imposed, in place of or in addition to a long-term suspension. The Principal shall send the written determination to the student and parent by hand-delivery, certified mail, first-class mail, email to an address provided by the parent for school communications, or any other method of delivery agreed to by the Principal and the parent.

If the Principal decides to suspend the student, the written determination shall: Identify the disciplinary offense, the date on which the hearing took place, and the participants at the hearing; Set out the key facts and conclusions reached by the Principal; Identify the length and effective date of the suspension, as well as a date of return to school; Include notice of the student's opportunity to receive education services to make academic progress during the period of removal from school as required by law and regulation; Inform the student of the right to appeal the Principal's decision to the Superintendent, but only if the Principal has imposed a long-term suspension. Notice of the right of appeal shall be in English and the primary language of the home if other than English, or other means of communication where appropriate, and shall include the following information: The process for appealing the decision, including that the student or parent must file a written notice of appeal with the Superintendent within five (5) calendar days of the effective date of the long-term suspension; provided that within the five (5) calendar days, the student or parent may request and receive from the Superintendent an extension of time for filing the written notice for up to seven (7) additional calendar days; and that the long-term suspension will remain in effect unless and until the Superintendent decides to reverse the designee's determination on appeal.

If the student is in a public preschool program or in grades K through 3, the Principal shall send a copy of the written determination to the Superintendent and explain the reasons for imposing an out-of-school suspension before the suspension takes effect.

### **Superintendent's Hearing**

A student who is placed on long-term suspension following a hearing with the Principal shall have the right to appeal the Principal's decision to the Superintendent.

The student or parent shall file a notice of appeal with the Superintendent within the time period noted above (see Principal's hearing - Suspension of more than 10 days). If the appeal is not timely filed, the Superintendent may deny the appeal, or may allow the appeal in his or her discretion, for good cause.

The Superintendent shall hold the hearing within three (3) school days of the student's request, unless the student or parent requests an extension of up to seven (7) additional calendar days, in which case the Superintendent shall grant the extension.

The Superintendent shall make a good faith effort to include the parent in the hearing. The Superintendent shall be presumed to have made a good faith effort if he or she has made efforts to find a day and time for the hearing that would allow the parent and Superintendent to participate. The Superintendent shall send written notice to the parent of the date, time, and location of the hearing.

The Superintendent shall conduct a hearing to determine whether the student committed the disciplinary offense of which the student is accused, and if so, what the consequence shall be. The Superintendent shall arrange for an audio recording of the hearing, a copy of which shall be provided to the student or parent upon request. The Superintendent shall inform all participants before the hearing that an audio record will be made of the hearing and a copy will be provided to the student and parent upon request. The student shall have all the rights afforded the student at the Principal's hearing for long-term suspension.

The Superintendent shall issue a written decision within five (5) calendar days of the hearing which meets the requirements of law and regulation. If the Superintendent determines that the student committed the disciplinary offense, the Superintendent may impose the same or a lesser consequence than the Principal, but shall not impose a suspension greater than that imposed by the Principal's decision. The decision of the Superintendent shall be the final decision of the school district with regard to the suspension.

## **Expulsion**

Expulsion is defined as the removal of a student from school for more than ninety (90) school days, indefinitely, or permanently as allowed by law for possession of a dangerous weapon; possession of a controlled substance; assault on a member of the educational staff; or a felony charge or felony delinquency complaint or conviction, or adjudication or admission of guilt with respect to such felony, if a Principal determines that the student's continued presence in school would have a substantial detrimental effect on the general welfare of the school.

Any student expelled from school for such an offense shall be afforded an opportunity to receive educational services and make academic progress.

## **Academic Progress**

Any student who is suspended or expelled shall have the opportunity to earn credits, make up assignments, tests, papers, and other school work as needed to make academic progress during the period of his or her removal from the classroom or school. The Principal shall inform the student and parent of this opportunity in writing, in English and in the primary language of the home, when such suspension or expulsion is imposed.

Any student who is expelled or suspended from school for more than ten (10) consecutive days, whether in school or out of school, shall have an opportunity to receive education services and make academic progress toward meeting state and local requirements, through the school-wide education service plan.

The District shall develop a school-wide education service plan describing the education services that the school district will make available to students who are expelled or suspended from school for more than ten (10) consecutive days. The plan shall include the process for notifying such students and their parents of the services and arranging such services. Education services shall be based on, and be provided in a manner consistent with, the academic standards and curriculum frameworks established for all students under the law.

The District shall notify the parent and student of the opportunity to receive education services at the time the student is expelled or placed on long-term suspension. Notice shall be provided in English and in the primary language spoken in the student's home if other than English, or other means of communication where appropriate. The notice shall include a list of the specific education services that are available to the student and contact information for a school district staff member who can provide more detailed information.

For each student expelled or suspended from school for more than ten (10) consecutive days, whether in-school or out-of-school, the school district shall document the student's enrollment in education services. For data reporting purposes, the school shall track and report attendance, academic progress, and such other data as directed by the Department of Elementary and Secondary Education.

## **Reporting**

The school district shall collect and annually report data to the DESE regarding in-school suspensions, short- and long-term suspensions, expulsions, emergency removals, access to education services, and such other information as may be required by the DESE.

The Principal of each school shall review discipline data monthly by selected student populations, including but not limited to race and ethnicity, gender, socioeconomic status, English language learner status, and student

with a disability status in accordance with law and regulation. This data should be sent to the Assistant Superintendent of Student Services and Special Education for further district review.

## **Students with Disabilities**

All students are expected to meet the requirements for behavior set forth in the student handbook. However, students eligible for special education are entitled to certain additional protections under state and federal law. Specifically, these laws include M.G.L. c. 71B and its implementing regulations (603 CMR 28.00) and 20 USC 1401 et.seq. ("the IDEA") and its implementing regulations (34 CFR 300 et. seq.).

Students eligible for special education who violate school rules are subject to removal from their current educational placement for up to ten school days per school year, to the extent that such removal would be applied to students without disabilities, without prior determination as to whether the misconduct is related to the student's disability.

Anytime school personnel seek to remove a student from his or her current educational placement for more than ten school days in a school year, **this constitutes a "change of placement"** and invokes certain procedural rights including but not limited to a review by the IEP TEAM of the relationship between the student's disability and the behavior subject to the disciplinary action, which is referred to as a **Manifestation Determination**.

If the behavior is a manifestation of the student's disability the student's TEAM will conduct a Functional Behavior Assessment and develop a Behavior Support Plan, provided that such an assessment was not already conducted before the behavior occurred. In the situation where an assessment was already conducted and a Behavior Support Plan is already in place, the TEAM will review the plan and revise it accordingly. **The student will also be returned to his educational placement unless the parent and the school agree otherwise.**

If the behavior is not a manifestation of the student's disability, then the student may be removed from his educational placement to the same extent that a regular education student would be removed. The special education student must continue to receive his special education services in order to participate in the general education curriculum although in another setting, and to continue to progress toward meeting the goals set out in the student's IEP. Additionally, the student should receive, as appropriate, a Functional Behavioral Assessment and Behavior Support Plan to prevent the behavior from happening again.

**There are certain situations in which school personnel may order a change in placement of a special education student without regard to whether the student's behavior is determined to be a manifestation of the student's disability. These situations include when a special education student:**

- 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 local educational agency.
- 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 local educational agency; or
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency.

In these situations, school personnel may remove the special education student to an appropriate Interim Alternative Educational Setting (IAES) for not more than forty- five (45) school days without regard to whether the student's behavior is determined to be a manifestation of the student's disability. If a special education student commits an offense which causes the student to be expelled from school, the school district continues to be responsible for providing the student with a free appropriate public education in another educational setting.

The parent/guardian will be notified immediately of the decision to take disciplinary action and the potential implications. Parent/guardian will be provided a written copy of the procedural safeguards in all written correspondence and at all suspension hearings.

For more information regarding the rights of special education students see the Massachusetts Department of Education's Procedural Safeguards Notice, which is available in many languages, at <http://www.doe.mass.edu/sped/prb/>. Additionally, copies of the state and federal special education laws are available online at the Massachusetts Bureau of Special Education Appeals website, at <http://www.doe.mass.edu/bsea/> or can be requested from the Assistance Superintendent of Student Services and Special Education.

### **Discipline of Students Not Yet Eligible for Special Education**

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violates a code of student conduct, may assert any of the protections provided for special education students if the school had knowledge (as determined by the IDEA) that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred.

The school district may be considered to have prior knowledge if, before the behavior that resulted in the disciplinary action occurred:

- The parent of the student expressed concern in writing to supervisory or administrative personnel of the student's school or to a teacher of the student that the student is in need of special education and related services; or
- The parent requested an evaluation of the student; or
- District staff expressed, directly to the Assistant Superintendent or other supervisory personnel, specific concerns about a pattern of behavior demonstrated by the student.

The district may not be deemed to have had knowledge if the parent has not consented to an evaluation of the student or has refused special education services, or if an evaluation of the student was completed and resulted in a determination of ineligibility. If the district had no knowledge that the student is a student with a disability prior to taking disciplinary action, the student may be subjected to disciplinary measures applied to students without disabilities. However, if an evaluation is requested during the time period in which the student is subjected to these disciplinary measures, the district must conduct the evaluation in an expedited manner. Until the evaluation is completed, the student remains in the educational placement determined by the district, which can include suspension or expulsion without educational services. If, after the evaluation, the student is determined to be eligible the district must provide special education and related services in accordance with the IDEA.

## **BULLYING PREVENTION AND INTERVENTION PLAN**

The revised Bullying Prevention and Intervention Plan can be found on the Oxford Public Schools website at: <http://www.oxps.org/parent-links/bullying> and is located in the link – Bullying Prevention and Intervention Plan.

**4 MAPLE ROAD, OXFORD, MA 01540 • (508) 987-6050 • FAX (508) 987-6054 • [www.oxps.org](http://www.oxps.org)**

*“The Oxford School District does not discriminate on the basis of race, color, sex, religion, national origin, sexual orientation, gender identity, disability, or homelessness.”*